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BENGAL LEGISLATIVE COUNCIL.

PRESIDENT.

The Hon'ble Mr. SATYENDRA CHANDRA MITRA, M.L.C.

DEPUTY PRESIDENT.

Mr. HAMIDUL HUQ CHOWDHURY, M.L.C.

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Maharaja Sir MANMATHA NATH RAY CHOWDHURY, KT., of Santosh, M.L.C.

Mr. H. G. STOKES, M.L.C.

GOVERNMENT OF BENGAL.

GOVERNOR OF BENGAL.

His Excellency the Right Hon'ble Lord Brabourne, G.C.S.I., G.C.I.E., M.C.

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The Hon'ble Mr. NALINI RANJAN SARKER in charge of the Finance Department.

The Hon'ble Khwaja Sir NAZIMUDDIN, K.C.I.E., in charge of the Home Department.

The Hon'ble Sir BIJOY PRASAD SINGH ROY, in charge of the Revenue Department.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca, in charge of the Department of Agriculture and Industries.

The Hon'ble Maharaja SRIS CHANDRA NANDY, of Kasimbazar, in charge of the Department of Communications and Works.

The Hon'ble Mr. HUSEYN SHAHEED SUHRAWARDY, in charge of the Department of Commerce and Labour.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur, in charge of the Judicial and Legislative Department.

The Hon'ble Mr. SYED NAUSHER ALI, in charge of the Department of Public Health and Local Self-Government.

The Hon'ble Mr. PRASANNA DEB RAIKUT, in charge of the Forest and Excise Department.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK, in charge of the Co-operative Credit and Rural Indebtedness Department.

BENGAL LEGISLATIVE COUNCIL

ALPHABETICAL LIST OF MEMBERS.

A

1. Ahamed, Mr. Nur. [Chittagong Muhammadan (Rural).]
2. Ahmad, Mr. Naziruddin. [Burdwan Division Muhammadan (Rural).]
3. Ahmed, Mr. Mesbahuddin. [Bengal Legislative Assembly.]

B

4. Baksh, Mr. Kader. [Bengal Legislative Assembly.]
5. Banerjee, Rai Bahadhr Keshab Chandra. [Dacca Division North General (Rural).]
6. Barua, Dr. Arabinda. [Chosen by Governor.]
7. Bose, Rai Bahadur Manmatha Nath. [Burdwan Division South-West General (Rural).]

C

8. Chakraverti, Mr. Shrish Chandra. [Calcutta General (Urban).]
9. Chaudhury Mr. Moazzemali. [Faridpur Muhammadan (Rural).]
10. Chowdhury, Khan Sahib Abdul Hamid. [Mymensingh West Muhammadan (Rural).]
11. Chowdhury, Mr. Khorshed Alam. [Bakarganj Muhammadan (Rural).]
12. Chowdhury, Mr. Rezzaqul Haider. [Noakhali Muhammadan (Rural).]
13. Chowdhury, Mr. Hamidul Huq. [Bengal Legislative Assembly.]
14. Chowdhury, Mr. Humayun Reza. [Rajshahi *cum* Malda Muhammadan (Rural).]
15. Cohen, Mr. D. J. [Chosen by the Governor.]

D

16. Das, Mr. Lalit Chandra. [Chittagong Division General (Rural).]
17. Datta, Mr. Bankim Chandra. [Bengal Legislative Assembly.]
18. Datta, Mr. Narendra Chandra. [Bengal Legislative Assembly.]
19. D'Rozario, Mrs. K. [Chosen by the Governor.]
20. Dutta, Mr. Kamini Kumar. [Bengal Legislative Assembly.]

E

21. Ellahi, Khan Bahadur S. Fazal. [Presidency Division South Muhammadan (Rural).]
22. Esmail, Khwaja Muhammad. [Dacca North-West Muhamadan (Rural).]

G

23. Goswami, Mr. Kanai Lal. [Calcutta Suburbs General (Urban).]

H

24. Haider, Nawabzada Kamruddin. [Bengal Legislative Assembly.]
25. Hosain, Khan Bahadur Saiyed Muazzamuddin. [Bengal Legislative Assembly.]
26. Hossain, Mr. Latafat. [Chosen by the Governor.]
27. Hossain, Mr. Mohamed. [Bengal Legislative Assembly.]
28. Huq, Mr. Syed Muhammad Ghaziul. [Tippera Muhammadan (Rural).]

I

29. Ibrahim, Khan Bahadur Maulvi Mohammad. [Dacca North-West Muhammadan (Rural).]

J

30. Jan, Khan Bahadur Shaikh Muhammad. [Calcutta and Suburbs Muhammadan (Urban).]

K

31. Kabir, Mr. Humayun. [Bengal Legislative Assembly.]
32. Karim, Khan Bahadur M. Abdul. [Mymensingh East Muhammadan (Rural).]
33. Khan, Khan Bahadur Muhammad Asaf. [Rangpur Muhammadan (Rural).]
34. Khan, Maulana Muhammad Akram. [Bengal Legislative Assembly.]

L

35. Laidaw, Mr. W. B. G. [European.]
36. Lamb, Mr. T. [Bengal Legislative Assembly.]

M

37. Maitra, Rai Bahadur Brojendra Mohan. [Rajshahi Division South-West General (Rural).]
38. McFarlane, Mr. J. [European.]
39. *Mitra, The Hon'ble Mr. Satyendra Chandra. [Bengal Legislative Assembly.]
40. Molla, Khan Sahib Subidali. [Bengal Legislative Assembly.]
41. Momin, Begum Hamida. [Chosen by the Governor.]
42. Mookerjee, Mr. Naresh Nath. [Bengal Legislative Assembly.]
43. Mookerji, Dr. Radha Kumud. [Bengal Legislative Assembly.]
44. Mukherji, Rai Bahadur Satis Chandra. [Burdwan Division North-East General (Rural).]

O

45. Ormond, Mr. E. C. [Bengal Legislative Assembly.]

P

46. Pal Choudhury, Mr. Ranajit. [Presidency Division General (Rural).]
47. Poddar, Mr. H. P. [Bengal Legislative Assembly.]

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*President of the Bengal Legislative Assembly.

R

48. Rahman, Khan Bahadur Ataur. [Presidency Division North Muhammadan (Rural).]
49. Rahman, Mr. Mukhlesur. [Rajshahi Division North Muhammadan (Rural).]
50. Rashid, Khan Bahadur Kazi Abdul. [Dacca South-East Muhammadan (Rural).]
51. Ray, Mr. Nagendra Narayan. [Bengal Legislative Assembly.]
52. Ray Chowdhury, Maharaja Sir Manmatha Nath, Kt., of Santosh, [Bengal Legislative Assembly.]
53. Roy, Rai Bahadur Radhica Bhusan. [Bengal Legislative Assembly.]
54. Roy Chowdhury, Mr. Krishna Chandra. [Chosen by the Governor.]

S

55. Sanyal, Mr. Sachindra Narayan. [Bengal Legislative Assembly.]
56. Sarker, Rai Sahib Indu Bhusan. [Dacca Division South General (Rural).]
57. Sen, Rai Sahib Jatindra Mohan. [Rajshahi Division North-West Gensral (Rural).]
58. Shamsuzzoha, Mr. M. [Bengal Legislative Assembly.]
59. Singh Roy, Mr. Saileswar. [Bengal Legislative Assembly.]
60. Sinha, Rai Bahadur Surendra Narayan. [Bengal Legislative Assembly.]
61. Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur. [Bengal Legislative Assembly.]
62 Stokes, Mr. H. G. (European.)

W

63. Wilmer, Mr. D. H. [Bengal Legislative Assembly.]

BENGAL LEGISLATIVE COUNCIL

(Official Report of the First Session, 1938.)

Volume I—No. 1.

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Monday, the 24th January, 1938, at 3 p.m., being the first day of the First Session, pursuant to section 62 (*2*) (*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

Oath of allegiance.

The following gentlemen took the oath:—

(1) Mr. H. G. Stokes.

(2) Mr. J. McFarlane.

OBITUARY REFERENCE.

Mr. PRESIDENT: Honourable members of the Legislative Council, since we met last, Bengal has lost three of her most distinguished sons. When the country was still mourning the death of Sir Jagadish Chandra Bose, there came in quick succession shocks consequent on the demise of Dr. Sarat Chandra Chattopadhyya and Principal Heramba Chandra Moitra. Each of them was great figure,—in his own sphere of activities.

In the death of Sir Jagadis Chandra, the country has suffered a deep loss, and deep and irreparable it will remain; for Sir Jagadis Chandra Bose's place in the world of science is not to be filled soon. To most of his countrymen he was a distant and solitary figure, far above and beyond the heat and dust of our political strife, leading the dedicated

life of the ancient Rishis and continuing that ancient search for truth. The eager search never ceased, and eventually "the mysterious power could not help surrendering" as, we are told, "it did to Faraday". His earlier researches, you know, are held by competent scientists to have contributed to a remarkable extent to the discovery of wireless. But he had already the gleam of a more profund truth, and he left that limited field of research to be able to concentrate his whole attention to the study of mute Nature.

Those who had the privilege of seeing him at close quarters, could realise the greatness of the man—his noble and scholarly indifference to personal gain. His last will and testament will be gratefully remembered by his countrymen; and as a document, free from all personal prejudice and parochial considerations, it will serve as an example worthy of emulation by all scholars and savants.

We could discover nothing but magnanimity in him even while he was confronted with bitter opposition from quarters, wherefrom it was not to be expected normally. He fought his way up in the world of science and put India, as has been so aptly said, on the scientific map. India, Sir Jagadis made the world realise, was not inferior to any other land in scientific research. This fight that he had won, became the starting point for a later generation of Indian scientists who were thus able to work in an atmosphere comparatively free from prejudice. Sir Jagadis was happy in this knowledge. He had the largeness of heart not to grudge this or anything, for indeed to him a brighter vision had opened itself. He had, in his own words, heard "the message proclaimed by my ancestors on the bank of the Ganges thirty centuries ago"—the message of the "One, in the changing manifoldness of the world". This ancient truth he, as a modern scientist, re-discovered and left for us all to remember and realise. Even here, where the One manifests itself in the manifold and often conflicting interests and divergent thoughts, where in the pursuit of the too practical problems of this work-a-day world, we the members of this House, more even than the cloistered savants, need the scientific method of dispassionate examination of the problems we are called upon to solve, we need to hark to the ancient message that the many interests, the multifarious compartments in which we are divided, are fundamentally and inalienably bound into a harmonious whole—the One,—in our own case, the One National Being.

Dr. Sarat Chandra Chatterjee.

Cast altogether in a different mould, Sarat Chandra Chatterji was a more intensely human figure. Sarat Chandra belonged to Bengal in body, mind and spirit—a typical Bengali of the era—that complex character who is not dead to his past, not blind to his future, who is tossed by the mighty currents raging the world over, is receptive to

the forces of modern age, but who is still questioning the ultimate value of it all. Sarat Chandra was a combination of all these forces. Indeed he had seen more of the different strata and sub-strata of our Bengali life than is usual with our literary men; and, has seen that, we are to remember, with those bright penetrating eyes which were his own and which welled up in sad tears of love and sympathy so frequently at what he had seen. This accounts for his sudden emergence from almost nowhere into great literary fame. As we read his first stories and novels, we saw that here was a world, familiar to us all, but still never before unfolded to our conscious apprehension by any literary talent. Only a genius can see the essentials of the life around him and a genius alone can present it again. It was left to Sarat Chandra to reveal this world of love and hope, aspirations and frustrations to ourselves. We saw our truant boys and castaways, we recognised our sad tender womenfolk, that bloom and fade in unconscious grace and love within the fold of our joint family. Yes, we saw the tragedy of it all as well, the small failings, the crushing of the individuals, the slow poisoning of the fountains of human life, the denial of fulfilment of love and passion, except within the narrower bounds of orthodoxy and propriety. We saw them, but we saw also that the picture, though true was tinged by a genial humour and lighted by deep sympathy and wide charity of heart. That was Sarat Chandra's key to our hearts. He revealed us to ourselves as it were, our problems and passions, and our valuations and re-valuations of life and love and society. The emotional re-actions of the Bengalee to the reality of modern life and that of his own country, are mapped out thus for all time by a consummate artist, and thus his whole picture gallery at once becomes instinct with life.

But Sarat Chandra was more than an artist. He had above all a human heart. Shy and retiring, he would open himself up to a few friends, and they alone could realise the greatness of the man behind the artist. Long association and close intimacy which we developed from the days of the late Deshbandhu Chittaranjan Das had offered me this precious opportunity, and I do not know if I am to mourn for the literary genius who enriched the world of letters with the golden fruit of his mind, or if I am to silently bow to the blow of fate, against one of the finest specimen of humanity, whose talk it was a delight to hear, whose whimsical traits were interesting to watch, and whose kindness and charity for the suffering humanity was an ennobling experience to witness. Sarat Chandra is no more—but he will live for all time to come in the hearts of his countrymen.

Principal Heramba Chandra Moitra.

Principal Heramba Chandra Moitra passed away in what may be called the ripeness of years. His was a long and useful life honourably

closed. He was a thorough-going scholar, a careful professor—indeed too careful even to be pleased with his own exposition. I had the proud privilege of being his student, and I can with confidence assert that his illuminating addresses on Carlyle, Emerson and Wordsworth would do honour to any European scholar. We have heard of the masters of Balliol and Rugby. In our time in this country we have seen one such figure in Principal Moitra. A sincere patriot and close associate of Sir Surendra Nath Banerjee, Bhupendra Nath Bose and Krishna Kumar Mitra, he took a prominent part in the development of political life of Bengal. An erudite scholar, a great professor and a devout Brahmo—he was held in great esteem by his countrymen for his scrupulous regard for truth and puritan life. His death removes an outstanding figure from the scholastic and educational world.

The Chair desires the honourable members to rise in their places just for a moment as a mark of respect to the memory of the departed great.

[Members rose in their places.]

It will be the duty of the Chair to convey to the members of the bereaved families the deep sympathy and condolence of the House.

QUESTIONS AND ANSWERS

Detenu Bijoy Gopal Datta.

1. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether Bejoy Gopal Datta, son of late Gagan Chandra Datta, of Feni subdivision in the district of Noakhali, is a detenu;

(*b*) if the answer to (*a*) be in the affirmative, will the Hon'ble Minister be pleased to state where he is now detained and when he was first taken into custody for detention;

(*c*) whether this case is not one of mistaken identity due to similarity of names;

(*d*) what was his weight when he was first interned and what is his weight now;

(*e*) whether he is the only son of his deceased father;

(*f*) whether the mother of this detenu, Bejoy Gopal, petitioned for his release undertaking to take care of him;

(*g*) whether in accordance with the Home Minister's declaration on the 16th August last, Babu Mohendra Chandra Datta, Pleader, Feni, uncle of the said detenu, petitioned the Political Department for his release;

(*h*) if so, when;

(*i*) if the answer to (*g*) be in the affirmative, has the detenu Bejoy Gopal Datta been set free;

(*j*) if not, why not;

(*k*) (*i*) whether the mother of the detenu Bejoy Gopal Datta is being given maintenance, and

(*ii*) what, if any, is the allowance given to Bejoy Gopal Datta during his internment;

(*l*) if the reply to (*k*) (*i*) or (*k*) (*ii*) is in the negative, what are the reasons for refusal of maintenance;

(*m*) whether the Government are considering the desirability of setting free this detenu Bejoy Gopal Datta now; and

(*n*) if so, when and within what period of time?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) to (*n*) There is no mistake in identity unless on the part of the hon'ble member who asks the question. Bejoy Gopal Datta, son of the late Gagan Chandra Datta, was arrested in July, 1933, and was released in November last on the sole condition that he should notify his residence and change of address. Government have announced that persons so dealt with may, if necessary, draw an allowance of Rs. 15 per mensem for six months after release, and that the allowances sanctioned for their dependants will be continued for a similar period. This order applies to the individual in question and his mother.

Cost of administration.

2. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Will the Hon'ble Minister in charge of the Finance Department be pleased to refer to the statement showing comparative figures of cost of administration of the Bengal Government under different main heads from 1931-32 to 1936-37 as found in the budget and state why in spite of giving effect to some of the recommendations of the Swan Committee, most of the departments show increase in cost since 1931-32?

(*b*) Will the Hon'ble Minister be pleased to give reasons for the increase under each head?

(*c*) Will he be pleased to state which of the recommendations of the Swan Committee have been given effect to and with what immediate and ultimate results?

(*d*) Will he be pleased to state, if many of the unanimous recommendations of the said Committee were not accepted and, if so, why?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Minister in charge of the Finance Department): (*a*) and (*b*) A statement is laid on the table. The increases were due generally to new items of expenditure thought necessary by the late Government—the details of which may be studied in the explanatory memoranda on the budgets for the years in question.

(*c*) A book of statements showing the decisions taken by Government on the various recommendations of the Retrenchment Committee is placed on the Library table.

(*d*) A number were rejected, because they were either considered impracticable or involved no saving.

Statement referred to in the answer to question No. 2 (a) and (b) showing cost of administration for the years 1931-32 to 1936-37.

(Figures are in thousands of rupees.)

Heads.	Actuals.					
	1931-32.	1932-33.	1933-34.	1934-35.	1935-36.	1936-37.
5—Land Revenue	41,24	37,77	37,33	39,03	36,79	35,28
6—Excise	19,55	17,00	17,54	16,60	17,88	18,84
7—Stamps	4,10	4,61	4,30	4,88	4,80	4,79
8—Forest	14,97	14,48	14,19	14,70	15,21	14,71
8A—Forest—Capital outlay charged to revenue ..	1,64	61	23	20	26	21
9—Registration	18,94	17,47	17,51	17,70	18,48	19,07
9A—Scheduled taxes	15	15	5	5	11	8
14—Interest on works for which capital accounts are kept ..	18,23	18,04	18,10	22,00	22,05	21,70
15—Irrigation—Other revenue expenditure financed from ordinary revenue.	10,59	10,69	12,95	11 05	11,63	9,66
15(1)—Irrigation—Other revenue expenditure financed from Famine Relief Grants.	..	..	..	..	..	..
16—Construction of Irrigation, Navigation, Embankment and Drainage works.	20	3	2	7	6	..
19—Interest on ordinary debt	6,74	4,81	9,77	15,62	15,97	16,06
20—Interest on other obligations	9	2	7	2	..	3
21—Reduction or avoidance of debt	7,76	8.66	38	40	10,86	12,05
22—General Administration	1,23,29	1,17,12	1,21,53	1,21,47	1,29,21	1,34,12
24—Administration of Justice	1,01,68	94,14	96,56	94,57	97,07	97,19
25—Jails and Convict Settlements	36,91	40,40	43,49	43,62	44,28	42,34
26—Police	2,20,95	2,19,47	2,22,72	2,24.68	2,28,84	2,26,79
27—Ports and Pilotage	4,32	4,64	4,61	5.66	5,09	4,72
30—Scientific Departments	34	29	28	31	29	29
31—Education (Reserved)	13,38	11,96	12,07	12,19	12,37	12,77
31—Education (Transferred)	1,20,42	1,14,32	1,14,43	1,15,40	1,18,03	1,18,75
32—Medical	51,52	48,36	48,79	48,21	49.19	49,44
33—Public Health	38,24	36,84	37,36	36,01	35,99	34,28
34—Agriculture	25,38	23,51	23,75	23,53	23,75	26,61
35—Industries ..	11,59	10,96	11,67	11,84	14,83	14,33

Heads.	Actuals.					
	1931-32.	1932-33.	1933-34.	1934-35.	1935-36.	1936-37.
37—Miscellaneous Departments	2,27	2,03	2,02	2,14	2,13	4,06
41—Civil Works	88,44	76,24	76,20	80,24	86,72	92,94
43—Famine Relief	2,33	48	10	1,73	2,33	10,34
45—Superannuation allowances and pensions ..	49,48	52,14	55,52	59,61	62,01	65,14
45A—Commutation of pensions financed from ordinary revenue.	6,22	3,28	..	..	..	..
46—Stationery and Printing	20,93	18,64	19,04	18,61	20,21	20,70
47—Miscellaneous	10,38	18,30	19,21	21,47	22,62	21,99
52—Extraordinary charges	..	..	..	2,50	..	..
Expenditure in England	41,73	40,36	39,87	41,90	42,11	43,50
Total expenditure from ordinary revenue ..	11,00,52	10,67,82	10,81,66	11,08,01	11,51,17	11,72,78

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: With reference to answer (*d*), are we to take it that the Committee which consisted of experienced officials and non-officials, made some suggestions which were impracticable, useless and involved no saving?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): Obviously in the opinion of the late Government, some of the suggestions were considered impracticable.

Mr. HAMIDUL HUQ CHOWDHURY: Who was Mr. Swan?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Mr. Swan was a member of the Indian Civil Service and held the post of a Commissioner of a Division.

Collegiate schools.

3. Rai BROJENDRA MOHAN MAITRA Bahadur: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is a fact that some of the Government high schools continue to be called collegiate schools, though they ceased long ago to be controlled by the Principals of the colleges to which they were originally attached?

(*b*) Will the Hon'ble Minister state whether it is a fact that any special status, educational or otherwise, was at any time contemplated for such schools to distinguish them from other classes of Government high schools?

(*c*) Is it a fact that all the Government high schools, including collegiate schools, give the same educational facilities at present?

(*d*) Are these schools regarded as having the same educational status though under different names?

(*e*) Is it a fact that a discrimination is now observed between a collegiate school and a zilla school or Government high schools in the rate of tuition fee payable by the students?

(*f*) If so, will the Hon'ble Minister state on what grounds?

(*g*) If the answer to (*e*) be in the affirmative, will the Hon'ble Minister consider the desirability of reducing the existing high rate of tuition fees realised in a collegiate school to the level of the ordinary rate obtaining in other Government high schools?

(*h*) Will the Hon'ble Minister consider the desirability of giving an actually higher status to a collegiate school than to a zilla school by making provision in the former for better educational equipments and more qualified and efficient teaching staff in view of the higher rates of fees now charged?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Education Department): (*a*) Yes.

(*b*) No.

(*c*) and (*d*) Yes.

(*e*) No discrimination is observed between collegiate schools and zilla schools or other Government high schools. But the rates of fees in Government high schools vary as between West and East Bengal and as between one Division and another as complete uniformity is impracticable owing to variations in local conditions.

(*f*) and (*g*) Do not arise.

(*h*) No.

Rai MANMATHA NATH BOSE Bahadur: As Rai Sahib Jatindra Mohan Sen is absent, may I, Sir, with your permission, be allowed to ask the question standing in his name?

Mr. PRESIDENT: Yes, you may.

District Magistrate of Dinajpur.

4. Rai MANMATHA NATH BOSE Bahadur (on behalf of Rai Sahib Jatindra Mohan Sen): (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*i*) the names of the District Magistrates who were posted at Dinajpur since 1921;

(*ii*) the duration of their stay there; and

(*iii*) the names of those among them who either retired or went on leave preparatory to retirement from Dinajpur?

(*b*) Will the Hon'ble Minister be pleased to state whether the usual period of stay of a District Officer in a district is 3 years?

(*c*) If so, will the Hon'ble Minister be pleased to state why this rule was not observed in the case of Dinajpur?

(*d*) Will the Hon'ble Minister be pleased to state whether the recent posting of Rai Nepal Chandra Sen Bahadur as District Magistrate is merely a stop gap arrangement?

(*e*) Is it the intention of the Government to keep him for the full period of 3 years?

(*f*) If the answer to (*d*) be in the affirmative, is the Hon'ble Minister considering the desirability of posting an officer in his place who can give the benefit of his services for the full term of 3 years?

(*g*) Is the Hon'ble Minister aware that the postings of District Officers for a short time or preparatory to their retirement have adversely affected the tone of the administration of the district?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) (*i*) to (*iii*) Two statements are placed on the table.

(*b*) Government endeavour to retain an officer in charge of a district for a period of approximately 3 years.

(*c*) This rule of practice could not be followed in Dinajpur owing to circumstances beyond the control of Government and the exigencies of the public service.

(*d*) Yes.

(*e*) He has already left Dinajpur.

(*f*) Government have no present intention of transferring the officer now in charge of Dinajpur, but can give no definite undertaking on the subject.

(*g*) No.

Statement referred to in the answer to question No. 4 (a) (i) to (iii).

STATEMENT I.

Statement showing the names of officers who were posted to Dinajpur as District Magistrates from the middle of 1920 up to date and also the period for which each of the officers stayed there.

Name of officer.	Station of posting.	Period of stay		Total period
		From—	To—	Y. m. d.
(1) Rai Nikhil Nath Rai Bahadur.	Dinajpur ..	4-6-1920 ..	7-11-1923 ..	3 5 3
(2) Mr. Jnanankur, De, I.C.S.	Do. ..	8-11-1923 ..	28-5-1926 ..	2 6 21
(3) Saiyid Abdus Salik ..	Do. ..	19-5-1926 ..	1-2-1927 ..	0 8 4
(4) Rai Ramesh Chandra Datta Bahadur.	Do. ..	2-2-1927 ..	7-7-1928 ..	0 5 5
(5) Rai Rebati Mohan Chakrabatti Bahadur.	Do. ..	8-7-1928 ..	4-8-1929 ..	1 0 28
(6) Babu Lalit Chandra Guha	Do. ..	5-8-1929 ..	2-12-1931 ..	2 3 29
(7) Babu Srimanta Kumar Das Gupta, M.B.E.	Do. ..	3-12-1931 ..	17-11-1932 ..	0 11 16
(8) Rai Suresh Chandra Sinha Bahadur.	Do. ..	18-11-1932 ..	23-10-1934 ..	1 11 6
(9) Mr. Jatindra Mohan Chatterjee.	Do. ..	24-10-1934 ..	14-1-1935 ..	0 2 22
(10) Rai Sarada Prasanna Ghosh Bahadur.	Do. ..	15-1-1935 ..	10-5-1935 ..	0 3 27
(11) Rai Suresh Chandra Basu Bahadur.	Do. ..	11-5-1935 ..	28-2-1936 ..	0 9 21
(12) Mr. M. K. Kirpalani, I.C.S.	Do. ..	1-3-1936 ..	24-6-1937 ..	1 3 24
(13) Babu Sushil Chandra Datta.	Do. ..	25-6-1937 ..	12-7-1937 ..	0 0 18
(14) Rai Nepal Chandra Sen Bahadur.	Do. ..	13-7-1937 ..	20-10-1937 ..	0 3 8
(15) Rai Sarada Prasanna Ghosh Bahadur, I.S.O.	Do. ..	21-10-1937 ..	..	..

STATEMENT II.

Statement showing the names of officers (District Magistrates) who either retired or went on leave preparatory to retirement from Dinajpur.

1.	Rai Nikhil Nath Rai Bahadur	.. Retired.
2.	Saiyid Abdus Salik	.. Retired.
3.	Rai Ramesh Chandra Datta Bahadur	.. Went on leave preparatory to retirement.
4.	Rai Suresh Chandra Basu Bahadur	.. Went on leave preparatory to retirement.

Extra copyists in the Registration Department.

5. Mr. KRISHNA CHANDRA ROY CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is in his contemplation to make the extra copyists of the Registration Department, who have five years' continuous service, permanent with the privilege of pension and provident fund of the services rendered during the extra period (taking into account at the time of pension the extra period they have already served out)?

(*b*) If so, from what date?

(*c*) If not, why not?

(*d*) Will the Hon'ble Minister state how many Registrars and Sub-Registrars in the office of the Registrar of Assurances, Calcutta, during the ten years ending with March 31, 1936, were—

(*i*) graduates, and

(*ii*) below the Matriculation standard?

(*e*) Is the Hon'ble Minister aware that a departmental examination was held for the first time in September, 1936, by the then Registrar of Assurances, Calcutta, amongst the extra copyists?

(*f*) Is the Hon'ble Minister aware that three came out successful in the examination?

(*g*) Is the Hon'ble Minister aware that one outsider has been taken into the permanent staff even though the two other successful men are still continuing as extra copyists?

(*h*) Is the Hon'ble Minister aware that the extra copyists of the Registration Department—

(*i*) do exactly the same nature of work as the permanent copyists;

(*ii*) officiated in place of permanent copyists more than once; and

(*iii*) sometimes copy much more than the scheduled rate of work?

(*i*) Will the Hon'ble Minister state what are their future prospects in the service?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (*a*) No.

(*b*) Does not arise.

(*c*) It very seldom happens that an extra muharri is in continuous employment for five years as they are only entertained to deal with any surplus work which the permanent staff cannot perform. Government do not, therefore, contemplate appointing such men permanently.

(*d*) (*i*) None and (*ii*) two.

(*e*) Yes.

(*f*) and (*g*) Yes. The outsider who was taken in, is a graduate and the late Registrar considered that the qualifications of two other passed candidates who were only non-Matrics, were not up to the mark. Under the existing orders, vacancies in clerical posts in Sadar Registration offices are to be filled up by selection from among deserving extra muharris who have passed the Matric, the I.A. or the I.Sc. examinations.

(*h*) (*i*) Yes.

(*ii*) Yes, but these were only temporary leave vacancies.

(*iii*) For extra muharris who are paid at piece-work rate there is no fixed standard of copying work.

(*i*) Under the present conditions, these outsiders employed as extra copyists have little chance of permanent appointment.

Report of the Press Officer.

6. Rai SURENDRA NARAYAN SINHA Bahadur: (*a*) Has the attention of the Hon'ble Minister in charge of the Home Department been drawn to the extracts published in the *Ananda Bazar Patrika*, dated the 3rd June, the 15th June, the 16th June and the 19th June, 1937, purporting to be quotations from a report submitted to the Government by Mr. B. R. Sen, as Press Officer?

(*b*) Is the Hon'ble Minister considering the desirability of publishing the whole report for the information of this House?

(*c*) Will the Hon'ble Minister state the names of the newspaper or newspapers which helped the Government in fighting terrorism as indicated by the Press Officer?

(*d*) Is it a fact that the Press Officer did not send Government advertisements to the *Basumati*, *Advance* and *Ananda Bazar Patrika* for publication?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Yes.

(*b*) No.

(*c*) and (*d*) I have nothing to add to the press-note issued on the subject on the 12th June, 1937, a copy of which is laid on the Library table.

Yield of rice.

7. Mr. KAMINI KUMAR DUTTA: (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state what steps the Government intend to take to make Bengal self-sufficient in the matter of the yield of rice?

(*b*) Will the Hon'ble Minister be pleased to state the quantity of the yearly import of rice into Bengal from Burma during the last 10 years?

(*c*) Will the Hon'ble Minister be pleased to state the average annual yield of rice per acre and the total annual yield of rice in Bengal during the last 15 years and the average annual yield of rice per acre during the same period in Japan, Italy, the United States of America, Egypt, Australia and Spain?

(*d*) Will the Hon'ble Minister be pleased to state if the Government are contemplating any comprehensive scheme for the improvement of agriculture in all its aspects?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) My department is carrying on research on the improved methods of cultivation of paddy and the selection of high yielding types. I am taking steps for the increase of research staff and also the district staff and demonstration grant for the better and quicker spread of the high yielding departmental paddies selected as a result of the research carried on by the department.

(*b*) and (*c*) Three statements are laid on the table.

(*d*) Yes, I have prepared a comprehensive scheme for the improvement of agriculture which is now under consideration of the Government.

Statement referred to in the answer to question No. 7(b), showing the quantity of the yearly import of rice into Bengal from Burma.

Name of year.	Rice in tons.	Paddy in tons.
1925-26 ..	206,489	39,333
1926-27 ..	118,220	19,809
1927-28 ..	489,216	64,686
1928-29 ..	569,199	34,875
1929-30 ..	197,431	9,787
1930-31 ..	123,000	26,000
1931-32 ..	315,000	42,000
1932-33 ..	130,000	3,000
1933-34 ..	472,000	25,000
1934-35 ..	840,000	66,000

No figures are available from 1935-36 to 1936-37.

Statement referred to in the answer to question No. 7(c), showing the yield of rice in Bengal for the last 15 years and the average annual yield per acre.

	Average annual yield per acre in lbs.	Total annual yield in tons.
1922-23 ..	929	9,029,800
1923-24 ..	827	7,509,600
1924-25 ..	828	7,711,700
1925-26 ..	871	8,218,700
1926-27 ..	829	7,355,200
1927-28 ..	779	6,494,200
1928-29 ..	1,014	9,685,200
1929-30 ..	909	8,203,200
1930-31 ..	1,002	9,206,500
1931-32 ..	961	9,492,600
1932-33 ..	963	9,364,200
1933-34 ..	897	8,679,600
1934-35 ..	894	8,272,900
1935-36 ..	765	7,207,600
1936-37 ..	1,087	10,667,800

Statement referred to in the answer to question No. 7(c), showing the average annual yield per acre in Japan, Italy, United States of America, Egypt, Australia and Spain.

	U.S.A. Tons.	Spain. Tons.	Egypt. Tons.	Australia. Tons.	Italy. Tons.	Japan. Tons.
1920 ..	0·78	2·36	1·24	..	1·60	1·47
1921 ..	0·82	2·27	1·05	..	1·62	1·28
1922 ..	0·79	2·35	0·80	..	1·55	1·40
1923 ..	0·75	2·09	1·18	..	1·69	1·28
1924 ..	0·77	2·50	1·17	..	1·71	1·32
1925 ..	0·75	2·51	1·19	..	1·77	1·37
1926 ..	0·81	2·57	1·22	0·76	1·83	1·28
1927 ..	0·89	2·53	0·75	1·02	1·95	1·42
1928 ..	0·89	2·35	1·26	1·36	1·86	1·37
1929 ..	0·90	2·50	1·29	1·62	1·95	1·34
1930 ..	0·94	2·56	1·23	1·65	1·77	1·54
1931 ..	0·93	2·31	1·06	1·30	1·81	1·26
1932 ..	0·94	2·54	1·11	1·22	1·93	1·38
1933 ..	0·93	2·50	1·20	1·62	2·05	1·66
1934 ..	0·98	2·53	1·21	2·05	1·87	1·22

No figures are available for 1935 and 1936.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state what does this research staff consist of and where this research is being made?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: In reply to the second part of the question I can say straightaway that the research is being carried on at the Dacca Farm. There is the research farm and buildings. About the staff I would ask for notice, Sir, as I cannot say anything off-hand.

Mr. RANAJIT PAL CHOUDHURY: Are any practical experiments being carried on?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Yes, certainly.

Mr. NAZIRUDDIN AHMAD: In the absence of Mr. Nur Ahamed, may I, Sir, be allowed to ask the question that stands in his name?

Mr. PRESIDENT: Yes, you may.

Reserve Forest in Chittagong.

8. Mr. NAZIRUDDIN AHMAD (on behalf of Mr. Nur Ahamed): (*a*) Has the attention of the Hon'ble Minister in charge of the Forest and Excise Department been drawn to resolutions Nos. 4 to 13 (copy enclosed) passed in a representative meeting of the Cox's Bazar, subdivision of Chittagong district, regarding reserve forests as published in the local *Satya Barta* of 29th October, in the *Star of India* of 30th October, and also similar resolutions 2 and 3 of a mass meeting of Rauzan thana as published in the local paper *Janamat* of 26th October, 1937?

(*b*) If so, will the Hon'ble Minister be pleased to state what step or steps he has taken or is contemplating to take to remove the grievances of the people of Chittagong?

(*c*) Will the Hon'ble Minister be pleased to state whether he is considering the desirability of having impartial enquiries made in these matters with a view to taking remedial measure for future?

MINISTER in charge of the FOREST and EXCISE DEPARTMENT (the Hon'ble Mr. Prasanna Deb Raikut): (*a*) Yes.

(*b*) and (*c*) Enquiries have been made by the local officers, and certain proposals have been made, which are under consideration of Government.

Promotion from Bengal Civil Service members.

9. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if some of the recent promotions to listed posts from the members of the Executive Branch of the Bengal Civil Service have caused considerable resentment and disappointment to many senior officers of that service?

(*b*) Will he be pleased to state if he proposes to consult the Public Service Commission in the matter by placing before them the character rolls of the senior officers passed over in order to ascertain whether such supersession is justified?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) I am aware that some members of the Executive Branch of the Bengal Civil Service have felt some disappointment in the matter of promotion to listed posts.

(*b*) The Central Public Service Commission is consulted in all cases of permanent promotion to listed post rank and the records of all officers whom it is proposed to promote and to pass over respectively are simultaneously considered by them.

Mr. NARESH NATH MOOKERJEE: Are we to take it then that these supersessions were made after proper consideration by the Public Service Commission? If so, were any reports issued by that Commission giving reasons for such supersession?

The Hon'ble Khwaja Sir NAZIMUDDIN: I would refer the honourable member to my answer (*b*) which shows that all cases of permanent appointment to listed posts have got to go to the Public Service Commission and all cases of supersession also go to them. The Public Service Commission give their concurrence or reject the proposals of Government: no reasons are given by them.

Khan Bahadur ATAUR RAHMAN: Is it a fact that some officers who were once passed over were promoted to a listed post within a very short time of being thus passed over?

The Hon'ble Khwaja Sir NAZIMUDDIN: This is quite possible, Sir, and there is no reason why it may not be so.

Khan Bahadur ATAUR RAHMAN: How is it then that an officer was considered to be fit for a listed post although only six months ago he was considered unfit?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not know whether it was within a very few months or six months, but it is quite conceivable that an officer may have an adverse report at one stage but later on, his work may have so much improved as to justify his inclusion in the list of listed posts.

Mr. RANAJIT PAL CHOUDHURY: Is the Public Service Commission actively functioning nowadays?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask the House, Sir, to judge of this question. I cannot follow what the honourable member means by this question.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Are these promotions made only on isolated reports or on the whole service record of an officer? If the whole service record is consulted, then I do not think that because of a single remark against him, he can be shelved altogether.

Mr. PRESIDENT: Please put your question in proper form.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: All right, Sir. My question is: "Is the whole service record of an officer considered or isolated remarks or a particular period of his service?"

The Hon'ble Khwaja Sir NAZIMUDDIN: Let me remove, Sir, all misunderstandings on the subject. All the confidential records are sent over to the Public Service Commission: I never said that an officer is held up merely because of one single adverse remark.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Since good remarks improve the chances of promotion, it is reasonable to conclude that one or two adverse remarks may make some difference as regards promotion.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state whether these promotions take place at the end of a period of service, say, of not less than 10 to 15 years?

The Hon'ble Khwaja Sir NAZIMUDDIN: There is no definite rule in this matter. It is very rare for anybody to be promoted to a listed post after 15 years' service, and I doubt if there is any case of an officer having been promoted to a listed post within this period.

Mr. HUMAYUN KABIR: In that case are we to take it that an officer is considered for the first time for a listed post after he has put in 15 to 20 years' service?

The Hon'ble Khwaja Sir NAZIMUDDIN: There is no time limit fixed for this purpose.

Mr. HUMAYUN KABIR: I want to know what is the practice?

The Hon'ble Khwaja Sir NAZIMUDDIN: The principle on which we ordinarily act is seniority and merit. Some time ago Government tried the experiment of giving an opportunity to younger officers to act in listed posts, and it was done on the recommendation and persistent representation of the Service itself.

Mr. HUMAYUN KABIR: In that case, will the Hon'ble Minister be pleased to state, if an officer who had put in 20 years' service and was considered unfit for promotion—how, in the course of 6 months, that officer could have so far improved his service record as to entitle himself to be considered for a listed post?

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to submit, Sir, that this question is now descending into the field of argument and that my answers are being distorted. I, therefore, do not think that any useful purpose will be served by answering this question in this manner, because I never suggested anything which the hon'ble member has put into my mouth.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it not likely to affect the morale of the service if junior officers are promoted in supersession of senior officers whose records also are very good?

The Hon'ble Khwaja Sir NAZIMUDDIN: So far there has been no serious representation against this method. As far as this question is concerned, it is impossible to satisfy everybody in the service. Those who are juniors press for it, while those who are seniors oppose it. We cannot please everybody.

Mr. NARESH NATH MOOKERJEE: Can we then definitely take it that efficiency alone is the ground on which promotions are made to listed posts?

The Hon'ble Khwaja Sir NAZIMUDDIN: I would like to remind the hon'ble member that I said that seniority and merit are the only considerations on which an officer is selected for promotion to a listed post.

Mr. NARESH NATH MOOKERJEE: In the absence of Mr. Kanai Lal Goswami, may I, Sir, be allowed to ask the question standing in his name?

Mr. PRESIDENT: Yes, you may.

Hooghly Co-operative Bank, Limited.

10. Mr. NARESH NATH MOOKERJEE (on behalf of Mr. Kanai Lal Goswami): (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state whether the Secretary and the Assistant Secretary of the Hooghly Central Co-operative Bank, Limited, have recently been convicted by the 2nd Assistant Sessions Judge of Hooghly in two Sessions trials for defalcations?

(*b*) Is it a fact that Babu Satya Dayal Basu, Assistant Secretary of the said Bank, made statements in both the above Sessions trials making allegations against some of the officers of the Co-operative Department?

(*c*) Is it a fact that the Sessions Judge has directed copies of the said statements and the judgments concerned to be forwarded to the Government for enquiry?

(*d*) If so, will the Hon'ble Minister state—

(*i*) what steps the Government propose to take in the matter; and

(*ii*) whether any public and judicial enquiry will be held regarding the allegation and the defalcations?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) and (*b*) Yes.

(*c*) The Sessions Judge has forwarded copies of the judgment and the statements of the accused Satya Dayal Basu in one case to the Registrar for necessary action.

(*d*) (*i*) A departmental enquiry has been started to ascertain what truth there is in the allegations of the accused Satya Dayal Basu, and also to see whether the irregularities and defects in the system of account keeping are merely due to the breaches of existing rules or whether further safeguards should be devised.

(*ii*) No public or judicial enquiry is contemplated.

Mr. NAZIRUDDIN AHMAD: In the absence of Mr. Nur Ahamed, may I have your permission, Sir, to ask the question that stands in his name?

Mr. PRESIDENT: Yes, you have my permission.

Scholarships for Moslem girls.

11. Mr. NAZIRUDDIN AHMAD (on behalf of Mr. Nur Ahamed): (*a*) Is the Hon'ble Minister in charge of the Education Department aware that the present number of scholarships reserved for Moslem girls is hopelessly inadequate?

(*b*) Will the Hon'ble Minister be pleased to state whether he is contemplating to increase the number of scholarships for Moslem girls by way of providing additional facilities to those poor Moslem girls who cannot proceed with further study for want of necessary expenses?

(*c*) Is it a fact that the Moslem Education Advisory Committee in their report published in 1934 strongly recommended the provision of larger number of scholarships for Moslem girls?

(*d*) Has the Hon'ble Minister taken any steps to give effect to the above recommendation of the said Committee?

(*e*) If not, does the Hon'ble Minister intend to take any steps in this matter?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (*a*) This is a matter of opinion.

(*b*) I have not lost sight of this matter and I am prepared to consider the question whenever necessity is established.

(*c*) Yes.

(*d*) Yes—no less than 37 scholarships and stipends have been instituted between 1934 and now.

(*e*) Does not arise.

Unemployment relief scheme.

12. Rai SURENDRA NARAYAN SINHA Bahadur: (*a*) Has the attention of the Hon'ble Minister in charge of the Agriculture and Industries Department been drawn to the issue of the *Ananda Bazar Patrika* of the 25th July, 1937, in which the cases of 148 unemployed young men who were mentioned in the Bengal Government Industries Department booklet entitled "Unemployment Relief Scheme" bearing No. 12225B of 1934-35?

(*b*) Will the Hon'ble Minister be pleased to state how much money has been spent by the Government up to now in connection with the scheme?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: (*a*) My attention was not drawn to the article in this paper.

(*b*) Rs. 3,81,074 up to 31st March, 1937.

Advertisement in newspapers by Government.

13. Rai SURENDRA NARAYAN SINHA Bahadur: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to place on the table a detailed statement of the amounts of money received by each newspaper for advertisement from the different departments of the Government?

(*b*) Will the Hon'ble Minister be pleased to state whether some newspapers are on the "ban" list?

(*c*) If so, will the Hon'ble Minister be pleased to state their names?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) The information is not available.

(*b*) and (*c*) I have nothing to add to the press-note issued on the subject on the 12th June, 1937, a copy of which is laid on the Library table.

Mr. NARESH NATH MOOKERJEE: In the absence of Mr. Kanai Lal Goswami, may I have your permission, Sir, to ask the question that stands in his name?

Mr. PRESIDENT: Yes, you may.

Putni estates in Arambag.

14. Mr. NARESH NATH MOOKERJEE (on behalf of Mr. Kanai Lal Goswami): (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state whether it is a fact that a large number of Putni estates in Arambag subdivision, under the Burdwan Raj which had been lately under the management of the Court of Wards, either have been surrendered or became *khas* by *Putni* sale?

(*b*) Has this been brought about as a result of the fact that large tracts of agricultural lands have been completely destroyed—

(*i*) by the accumulation of sand brought down by the water channels which became silted up; and

(*ii*) by the floods in the locality caused by the complete choking up of the mouths of such water passages?

(*c*) If the answer to (*b*) be in the affirmative, will the Hon'ble Minister state what steps do Government propose to take to re-excavate the Aurora Khal and the existing net-work of water channels in the area so as to reclaim a large number of agricultural holdings which are about to be annihilated?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) I am informed that some *putnis* were made *khas*.

(*b*) I have no information to this effect.

(*c*) A scheme for silt clearing the Aurora Khal and providing two regulators therein was prepared in 1922, but was dropped as the local people did not show any interest in it. It has recently been revived and is receiving the attention of the local authorities.

Advertisement by Government educational institutions.

15. Rai SURENDRA NARAYAN SINHA Bahadur: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether Government educational institutions are free to advertise for their needs in any paper they may think fit without any reference to the Publicity Department?

(*b*) If not, what officer of the Government is to decide which newspapers are suitable for the purpose?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Mr. A. K. Fazlul Huq: (*a*) No.

(*b*) The Press Officer to Government.

Mr. NARESH NATH MOOKERJEE: Is it a fact that some papers are being purposely excluded in the matter of advertisement?

The Hon'ble Khwaja Sir NAZIMUDDIN: I refer the hon'ble member to the policy of Government in this connection published in the Government communique of the 12th June, 1937.

Panel of Chairmen.

Mr. PRESIDENT: I have to inform the House that under Rule 3 of the Bengal Legislative Council Rules I nominate—

Khan Bahadur M. Abdul Karim,

Dr. Radha Kumud Mookerji,

Maharaja Sir Manmatha Nath Ray Chowdhury, of Santosh, and

Mr. H. G. Stokes

on the Panel of Chairmen for the current session.

Rules Committee.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I beg to present the interim report of this Committee appointed by this House on the 13th August, 1937, to draft rules of procedure of this House. The interim report in part has been placed before this House and a part which is typewritten should also be considered along with the red booklet. We continued our sittings from the 15th November till the 21st January 1938. We could not, however, complete the whole field and have proceeded almost to the half of the rules. On account of various circumstances we could not sit continuously and some of our meetings had to be adjourned for want of quorum. Most of our meetings were attended by generally four, sometimes by two and sometimes by three members. I do not want to say where the fault lies and why the members did not attend, but the fact remains that we have been working continuously, not in full strength, four of us attending at the most. This will certainly create difficulties when the final report comes before this House. Each item will have to be considered again as an item to which none of the parties or their representatives had agreed.

With your permission I move for the reappointment of the Committee and I hope members will make it a point to meet from day to day continuously till we finish the whole report and present it before the House. I may also state, if I am not prohibited from mentioning it, that the similar committee of the other House has also been sitting and that they have almost completed their report. It will be of great help to us if we also immediately start work and consult them as to the report they are going to prepare and adopt the rules on a common basis. With these words, Sir, I present the report of the Committee which may be taken as read.

I move that the Committee be reappointed with the direction that they continue their work with such expedience that they may submit their report within two months from this date.

Mr. HUMAYUN KABIR: I would offer one or two remarks on what has been said by the Deputy President. First of all, this Committee was not appointed by the parties coming to an agreement, but it was appointed by Government and approved by this House. Further this Committee which was functioning for three months or more has not been able to come to any conclusion about its rules; not even half the rules have been framed. I would only place before you for consideration whether it would be advisable to place that Committee in charge of the rules when they have failed in spite of our repeated directions. The first direction of this House was that the report should be presented by the 15th November. Time was asked for and granted, and now again for the second time, time is being asked for. It is a question of the privileges of this House and as the custodian of this House, it is for you to decide whether this Committee has any right to be reconstituted in the manner in which it was first formed.

Mr. PRESIDENT: The Chair regrets very much that the work of such an important Committee like the Rules Committee has not been properly attended by its members. We ascertained and obtained the consent of the members who were willing to serve on the Committee. It will not be possible, therefore, for Government to expect the members of the Committee to attend regularly. Instead of blaming Government, the House should have been careful in selecting members to be appointed. It is open to the House again to replace any member who did not care to attend at all any of the meetings and any party who are willing to replace their members by other members who will be more careful, should be allowed to do so. I think that suggestion may be made just now so that it may not be said again that it was done on the responsibility of Government.

The Hon'ble Khwaja Sir NAZIMUDDIN: Ordinarily if it had been the question of reappointment of this Committee, I would not have raised this issue but I do think, if there is to be an alteration, the rule for such alteration should be followed and at least three days' time should be given if the House wants to make any change. This motion cannot be made without further notice. I cannot say anything about the non-attendance of the members of the Upper House. As far as the Committee is concerned, its work has been very difficult and I know that the Committee have tried to work in such a manner that there may be some uniformity between the recommendations of the Assembly and the Council, and I think it would be only fair to say that the Council Committee delayed their work to a certain extent,

so that it may proceed simultaneously with the Assembly and there may be a uniformity. That is one reason why there has been some delay. Secondly it is an important Committee. The work is of an intricate and arduous nature and there have been numerous suggestions both from Government and other members as well as from the Deputy President who has spent a great deal of time and labour in compiling a comprehensive report on this subject. The result is that all these have to be printed and put down together to come to some definite conclusions. This is the second reason why there has been some delay and I do not think it is fair to blame the Committee for not presenting the report in time.

Mr. KAMINI KUMAR DUTTA: I was one of the members of this Committee and I do not live in Calcutta but come from the *mufassil*. I attended all the meetings at the beginning. We have one grievance. The Committee sat for very short hours at every meeting to suit the convenience of Government members and most of the meetings were called at 4 p.m. and after working for an hour or two we had to disperse. So I make one suggestion that when the Committee sits, it should sit for longer hours, so that we can really finish our work within the shortest possible time. Another grievance is that when an intimation is given during the recess of the Council, we should at least be given some time to arrange our own affairs. If we get a notice just one or two days before a Committee meets, it is not possible for us to attend some of the meetings.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: We may assume that the hon'ble members who form this Committee have applied their time to study this question as explained by the Hon'ble Minister in charge of the Home Department. If a fresh set of members are selected and a new Committee is appointed, the whole proceedings will have to be started *de novo*. They will naturally require more time to study the question than the members who have already devoted their time to it. May I make one suggestion that in all fairness and for the sake of expedition it is much better to reappoint the existing Committee.

Mr. HUMAYUN KABIR: I would make an amendment, namely, that if a member of the Committee fails to attend 4 consecutive meetings, he automatically ceases to be a member.

Mr. PRESIDENT: The definite question before the House is that the Committee be re-constituted and that they be empowered and asked to submit their report by the end of a couple of months. Some hon'ble members and Sir Nazimuddin suggest that that Committee should not be appointed just now but that a notice should be given

in the first instance. I would suggest to the House that the matter may be taken up on Friday next. The proposal is that the Committee may be re-constituted with such changes as the House considers necessary.

The Hon'ble Khwaja Sir NAZIMUDDIN: It will be really very inconvenient if new members are taken unless somebody wants to go out. If a new member is taken even the few rules on which decision has been arrived at are liable to be changed. Specially if there is a great change, it is bound to reopen all the questions that have already been decided.

Mr. HAMIDUL HUQ CHOWDHURY: If the Committee is re-constituted, we will be faced with great difficulty and as Sir Bijoy Prasad has pointed out, several suggestions will come up before the House. My proposal is that the present members do continue to be members of the Committee. If any one finds it difficult to attend, then we expect he will resign, and in that case the party from which he was taken may be required to nominate its representative and such a nominee shall be the elected member in the place of the member resigning. Therefore, Sir, I would suggest that we may decide the matter to-day and we should not proceed on the line of re-constitution of the Committee and give liberty to members to submit their own proposals which may not ultimately be desirable to decide by vote. Many of us have considered almost the whole of the scheme and have decided upon the way we should proceed. And now if we include new members, then the difficulty will be that we will have to start from the point from which we started when the Committee was appointed and not from the place at which we are now. Therefore, Sir, I submit that the Committee, as I have proposed, be re-constituted on the line as it was before, giving leave to any member who cannot attend to resign, and in that case the particular group from which he comes should be asked to send a nomination and that be accepted by the House as a person nominated by the House to serve on the Committee.

Mr. MESBAHUDDIN AHMED: Sir, I think it should be postponed and taken up on Friday as you have suggested, because we like to think over the matter, and there may be somebody who wants to join and take part in this Committee.

Mr. E. C. ORMOND: Mr. President, Sir, whether this matter is postponed or not, may I take the opportunity of making one or two brief remarks for the information of the House? The hon'ble member Mr. Humayun Kabir seemed to suggest that the Committee had not been doing its work and we may suppose that had he been on the Committee he would have done it better. (Laughter.) I would

ask the hon'ble member in the first place whether he has been himself continuously in Calcutta over all the holidays during which the Committee sat, and secondly, whether he has read the report giving explanation as to why the Committee was unable to sit for a considerable time. There were two very plain reasons why the Committee had great difficulties in sitting continuously or with sufficient frequency to get the work done. One was that there was an almost continuous series of holidays—there were Muhammedan holidays and Hindu holidays and Christian holidays—and various members of the Committee wrote in to the Chairman asking specifically that the Committee might not sit on certain dates. You can see, Sir, and the House will see at once that under those conditions it was practically impossible to get the Committee to sit continuously. Then the other difficulty was that it would have been useless for the Committee to sit if it had nothing to deliberate upon, and the fact that the Committee did not sit, did not mean that the members of the Committee were not doing a considerable amount of work. The Government were doing a considerable amount of work and we have since had the benefit of a complete set of draft rules from the Government. The Chairman of the Committee, the Hon'ble Deputy President of this House, did a stupendous amount of work and has given the House the benefit of a complete set of draft rules. Now, it is perfectly clear that those draft rules could not be thought out or written out in a day and before these rules were complete, time had to elapse. In that case it would have been completely useless to sit and I hope that the House will appreciate that the Committee had not been idle. Actually, the representative of the group of the House to which I have the honour to belong, attended pretty well on every occasion. Another group of the Opposition Party on my right attended only on very few occasions not because, I understand, their members were not interested in the subject; but I believe the hon'ble member for Howrah had some electioneering business and I believe his co-member had other very good reasons for being absent. It simply comes to this as the Chairman had said: if the members who were appointed on the Committee are now in a different position from what they were in before; having now ceased their holidays and having now returned to Calcutta, there may be no reason whatever—and I personally would see no reason whatever—to anticipate any difficulty in the Committee continuing its labours consecutively, and therefore, Sir, I would ask the hon'ble member Mr. Humayun Kabir, now that he has had time to read the report, if he will be good enough to withdraw anything he may have said suggesting that the Committee had been idle. In doing so, may I refer to one other point. At the time this Committee was appointed, members of the House were asked to give the benefit of their suggestions, and very few members of the House have sent in any suggestions. And before the hon'ble members of the House go throwing

mud at the Committee, I hope they will be willing to do their share of the same work. And if Mr. Humayun Kabir has any suggestions, the Committee will be delighted to receive them. Under those circumstances, may I support what the hon'ble Mr. Hamidul Huq Chowdhury has suggested and that the Committee may be re-constituted simply with this proviso, that if any parties have persons who have by mistake been nominated on that Committee but who will be unable to sit, they may be given leave to nominate substitutes. I would suggest, Sir, that that is the quickest way in which the work may be proceeded with without interruption.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, I am not in a holiday mood like my friend Mr. Ormond. I would certainly like to give the debate a serious turn. It is very unfortunate that it has taken an unpleasant shape and I am afraid the real issue has been confused with imaginary issues. The only question before the House is whether further time should be given to the existing Committee to conclude their labour. The question of reconstituting the Committee or appointing a new Committee does not arise, and I think it will not be desirable to labour such points at this stage. If the Houses refuses to extend the given time, the inevitable result will be that the Committee will cease to function and die an unnatural death. It will then be a matter for consideration as to whether a new Committee should be constituted or the old Committee re-constituted. At the present moment, it is for the House to decide whether further time should or should not be given. That is the only question before the House and I might tell you that parliamentary convention demands that when a Committee is unable to conclude its labours and comes before the parent body to ask for more time, time is always given as a matter of courtesy.

Mr. PRESIDENT: I quite appreciate the difficulty of the Committee in completing its work; but the Chairman of the Committee made it also clear that for want of quorum, the Committee could not meet several times, and it is quite correct for the House now to decide whether it will give the same Committee time to complete its work within a period of a couple of months. So I shall put that question before the House.

The question before the House is that a period of two months be allowed for the Rules Committee to complete its work and submit its report.

The motion was put and agreed to.

GOVERNMENT BILLS.

The Bengal Tenancy (Amendment) Bill, 1937.

Mr. PRESIDENT: I may inform the House that the Bengal Tenancy (Amendment) Bill, 1937, as passed by the Assembly has been laid on the table under section 81 of the Rules and Standing Orders.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: With your permission, Sir, I would now formally give notice that I propose to move for the consideration of this Bill on the 8th of February.

Mr. PRESIDENT: In that event the last time and date for giving notice of amendments will be by noon of the 29th January. Then the members will have five days' notice and I think it is enough for members to give notice of amendments.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: We will require more time.

Mr. HUMAYUN KABIR: May we suggest that at any rate if you fix the 29th, we may be asked to give amendments up to the first thirteen clauses or so up to the 29th and for the subsequent clauses a further date may be given?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The Bill has been before the public for the last few months and I hope that those who take an interest in the Bill are already familiar with its clauses and it will not be difficult for them to frame their amendments within five days. My humble opinion is that five days is quite sufficient for putting in amendments.

Mr. HAMIDUL HUQ CHOWDHURY: May I enquire from the Hon'ble Minister the reason why the date is changed to 8th February. I think the earlier notice says that the Bill will be taken into consideration on the 31st.

Mr. PRESIDENT: The difficulty was that the rule requires ten days' notice for all amendments. If it is moved on the 31st, the members will have no time and the whole thing becomes absurd.

As regards the fixing of time, I refer the hon'ble members to section 83 of the Rules and Standing Orders. It is for the Hon'ble Minister to consider it. I cannot force it. The rule only requires that on the day on which the motion is set down in the list of business which shall, unless the President otherwise directs, be not less than seven days from the receipt of the notice, the member giving notice may move that the Bill be taken into consideration. After seven days under this rule, he

is entitled to bring that motion. Of course it is absurd in this way because all amendments require ten days' notice; so they have to reconsider their position and now they have fixed 8th of February, thus giving hon'ble members five clear days' time to give notice of amendment. Now, it is for the Hon'ble Minister to say if he is agreeable to extend the time.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: This matter has been before the public for the last few months and the hon'ble members who are interested in this question, I hope, have studied the Bill. Therefore five days ought to be quite enough for putting in amendments.

Rai KESHAB CHANDRA BANERJEE Bahadur: May I submit for the consideration of the Hon'ble Minister whether five days' time is adequate? I think, Sir, having regard to the fact that there are other important things—official and non-official Bills coming up for consideration—in this session, at least seven days' time be given.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, it is more than five days as a matter of fact. The motion will be taken up on the 8th of February and to-day is 24th of January.

Mr. PRESIDENT: Under section 65 of the Rules and Standing Orders ten days' notice will be necessary for notice of amendment. If within five days there is any notice of amendment, that can be only considered on the 8th of February. So members will have to give notice of amendments within five days.

The Hon'ble Khwaja Sir NAZIMUDDIN: I submit, Sir, that as soon as a motion is made, members have got right to give amendments, and I think five days is more than enough. I may say in this connection that this is one of the subjects which the Rules Committee will have to discuss and which we have been discussing in our place. If members insist on a long time to give notices of amendments, then the whole business of the Assembly and the Council will be considerably delayed. Nothing can come up before fifteen or twenty days. Supposing in case of a Bill fifteen days' notice is required and ten days' notice is required for amendments, and if members take at least another ten days, then it means that thirty days will be required before you can take a subject in the Council or the Assembly, and with the vast number of Bills and amendments and motions before this House, it will mean that very little business will be transacted. Therefore I appeal to the House to accept this five days' notice as sufficient for giving amendments.

Mr. HAMIDUL HUQ CHOWDHURY: Speaking for this side of the House, I may say that we are averse to any further delay in this matter. We thought that the rules prohibited the House from giving its consent

to take the matter beyond the 31st of this month. If the House insists on ten days' time, it should not be delayed beyond the 8th of February. In any case we will be considerably hampered as we will have to share the building with the Assembly from the 7th and we will not be able to devote more than two hours' time every day to the consideration of this question. So we must devote as much time as possible now to the consideration of this important question and finish it within a reasonable time. Therefore, we suggest that the time should not be extended but, if possible, be curtailed.

Mr. PRESIDENT: The hon'ble member is entitled to ask for more time and that ten days be devoted after the 7th, but I have explained to him the absurdity of the position. Ten days is impossible. It is for the Hon'ble Minister to decide and neither the House nor the President has any right to dictate to him when he would bring it, provided he satisfies the seven days' limit.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I think it would be difficult for Government to agree to a further extension of time.

The Bengal Famine Insurance Fund Bill, 1937.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the Bengal Famine Insurance Fund Bill, 1937, be taken into consideration.

In moving this motion I just want to make one or two observations explaining the object of this Bill. Under the old Government of India Act there was a provision for a famine insurance fund and that fund used to be held in the balance of the Government of India. Under the present Government of India Act there is no such provision, but this Government considers that it is a very effective method of providing funds for famine operations. Other Governments such as the Bombay Government, the United Provinces Government and the Government of Madras had a Famine Insurance Act passed under the previous constitution. But the Government of Bengal preferred to leave it to the present constitution. The proposal now is that there should be a famine relief fund the maximum of which would be Rs. 12 lakhs. It is to be built up by an initial contribution of Rs. 5 lakhs and annual contribution of Rs. 2 lakhs, except of course the last instalment till it reaches the maximum of Rs. 12 lakhs. That money would be spent in meeting expenditure on famine due to earthquake, flood or drought. If there is a balance over Rs. 12 lakhs due to accumulation of interest, that balance may be spent on irrigation works or protective works and also in meeting expenditure on loans which might be necessary for Government to raise from time to time. If that

money is not spent then there will be accumulation, whereas the expenditure on the loans will have to be met from the general revenues of the Government.

I would only like to stress one point that though we limit the total amount to Rs. 12 lakhs, that does not by any means limit the capacity or liability of Government of spending more on famine relief. In the past few years the expenditure on famine relief each year did not exceed on an average Rs. 60,000, except in the year 1935-36 which was an unusual year, as is well known to the hon'ble members of this House, when Government had to spend a little over Rs. 10 lakhs.

Mr. HUMAYUN KABIR: What is the normal expenditure on famine relief?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: About Rs. 60,000. From the data that are available, it is apparent that there are cycles famine and probably in another fifty years time Bengal will not be faced with a similar situation; so in the opinion of Government Rs. 12 lakhs is an ample amount. With these few words I move my motion.

The motion was put and agreed to.

Clause 1.

Mr. HUMAYUN KABIR: I beg to move that clause 1 be renumbered as sub-clause (*1*) of that clause and after that sub-clause as renumbered, the following be added, namely:—

"(2) It extends to the whole of Bengal, except the town of Calcutta and any area which has been or may hereafter be constituted a municipality under the provisions of the Bengal Municipal Act, 1932.

(*3*) It shall come into force on or before the 1st April, 1938."

My purpose in moving this amendment is merely to make clear what is already implied in this Bill and also to some extent dissociate relief given in rural areas from relief given in municipal areas. I think it will be generally agreed that in municipalities arrangements for relief of distress are far easier to make than in rural areas and the possibility of famine does not arise in towns and municipal areas at all. In municipal areas we cannot perhaps think of famine as such. Since the Hon'ble Minister has not only included in his Bill a provision for insurance against famine but also against floods and floods are things to which the municipalities are liable. I would like to make it clear that in case of floods, this insurance fund will not be used to render relief to municipalities generally. As I said a moment ago in the case of municipalities, funds can be collected in other ways. So this fund should be reserved for relief in rural areas.

With regard to the date, there is no specific date mentioned in the Bill. It says only "on the commencement of the Act." I want to make it explicit. As I think that before the next budget the Hon'ble Minister cannot make provision for this fund, I have suggested 1st April 1938.

With these words I move my amendments.

Mr. KAMINI KUMAR DUTTA: I stand not in support of the amendment but to oppose it because the mover has in his mind rich municipalities and towns like Calcutta; but there are municipalities in the interior of Bengal which really consist of villages only: practically there is no difference between rural areas and many of these municipalities in the interior of the province. Poor people in these municipalities are exactly in the same position as people of the rural areas. Indeed the law of the Bengal Tenancy is applicable to those municipalities of the rural areas in the province. There is no reason why the poor people living in the interior should not have the advantage of this law. For these reasons I oppose the amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I oppose the amendment. As clearly explained by the previous speaker, there are municipalities and municipalities. The hon'ble mover of the amendment is probably thinking of the municipalities like Calcutta, Dacca and Howrah. These are municipalities which are really urban areas and where it may be quite easy to collect funds for famine relief. But there are municipalities which are no better than rural areas. For instance, the municipalities of Birnagar, Rajpur and several other municipalities within the districts of the 24-Parganas, Hooghly and Nadia are no better than rural areas; because there was no Village Self-Government Act before, that is why they were constituted into municipal areas, otherwise they would have formed into union board areas. So that the distinction that is sought to be created by this amendment is not justified. I think it should be left to the Government to decide where the famine fund should be spent and where not. I am perfectly certain that no Government will spend money out of this fund which is an insurance fund on areas where it is not necessary to do so. In this view of the matter I hope the hon'ble member will not press the first portion of his amendment.

As regards the second portion of the amendment, unless the Bill is passed into law and receives the Governor's assent, it will not be brought into operation. So the result of this amendment would be to give the Act a retrospective effect if the Bill cannot be enforced from 1st April. I think that is very undesirable. Government are anxious, I can assure the hon'ble members, to bring this Bill into operation as quickly as they can and there is no reason why this time-limit should be put in.

The first portion of the motion, viz., proposed sub-clause (*2*) was then put and lost.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: With regard to second portion of the amendment, I would point out that the expression "on or before" is very vague.

Mr. HUMAYUN KABIR: I am prepared to accept it if the Hon'ble Minister accepts the expression "on the 1st April 1938".

The second portion of the motion, viz., proposed sub-clause (*3*) was put and lost.

Mr. PRESIDENT: The question before the House is that clause 1 stand part of the Bill.

The motion was put and agreed to.

The question before the House is that clauses 2 and 3 stand part of the Bill.

The motion was put and agreed to.

Clause 4.

Mr. PRESIDENT: The question is that clause 4 do stand part of the Bill.

Mr. HUMAYUN KABIR: I beg to move that in clause 4, for the words "As soon as may be after" the word "On" be substituted.

This is a purely verbal alteration, and since the words "As soon as may be after" may mean anything, I have suggested the word "On" in their place; "on" is the word which has been used in the previous clause by the Government. This is only a verbal change, and I hope it will be accepted by the Hon'ble Minister. It is really the next two amendments which are of importance, and which suggest some change in the provisions of the Bill. The Hon'ble Minister has told us a short while ago that the annual expenditure on famines in Bengal is Rs. 60,000, and that in the year 1936 it went up to as much as Rs. 10 lakhs——

Mr. PRESIDENT: Mr. Kabir, I shall take up the amendments one after the other; so you need not discuss any other amendments of yours now.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I do not think it is necessary to make that alteration. The language, as it is, is quite all right to my mind.

The amendment was put and lost.

Mr. HUMAYUN KABIR: Sir, I beg to move that in clause 4, for the word "five" the word "ten" be substituted, and also that to clause 4, the following be added, namely:—

"and shall thereafter make an annual contribution of five lakhs of rupees till the fund attains the figure of twenty-five lakhs of rupees".

My purpose in moving these two amendments is to provide a fund which may prove adequate for the purposes which have been specified in the preamble to the Bill by the Hon'ble Minister himself. He told us a little while ago that the annual expenditure of famine relief was in the neighbourhood of Rs. 60,000 and that in unusual years it goes up to a very much higher figure. We are not at the moment concerned with the unusual years; but the Bill wants to make provision for famine and flood and nowadays floods are a recurrent feature in Bengal, we find floods occurring in some parts of this province practically every year. If provision is to be made for famines and floods which have now become, shall I say, periodic occurrences, and the annual expenditure being estimated at the modest sum of Rs. 60,000, there should be created a fund from which at least an amount equivalent to this sum can be realized year after year. And if you want to provide for such a fund, I would submit that a sum of less than Rs. 25 lakhs is not adequate, for nowadays money does not fetch in the market more than 2½ per cent. or at most 3 per cent. by way of interest. Therefore, if we have Rs. 12 lakhs for this fund, it will not yield Rs. 60,000 a year. I, therefore, fail to see why the Hon'ble Minister, who himself admits that an amount of Rs. 60,000 is required annually for expenditure on famine relief, does not make provision for that amount and particularly to-day, when we are enjoying a period of relative prosperity, we should make provision against the worse days that may come. The budgetary position of this provision is good to-day, but it may not be good in the future: Therefore, we should build up a fund from which later on it may be possible from the interest alone to make adequate provision against floods and famines, and for this purpose I beg to move that the Famine Insurance Fund be so constituted as to reach the figure of Rs. 25 lakhs—Government making an initial contribution of Rs. 10 lakhs and thereafter of Rs. 5 lakhs a year till the fund reaches that figure.

These are the two amendments, Sir, which I have moved.

Mr. PRESIDENT: Mr. Kabir, you can move only one amendment.

Mr. HUMAYUN KABIR: All right, Sir, then I move only the first one to the effect that in clause 4 for the word "five" the word "ten" be substituted.

The amendment was put and a division was asked for.

When, however, the amendment was again put, after the House had assembled for the division, it was agreed to without any division.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Division!

Mr. PRESIDENT: You ask for it rather too late. I have already announced the decision of the House.

(Adjournment for prayer.)

Mr. PRESIDENT: The House is now adjourned for prayer till 4-45 p.m.

(After adjournment.)

The House re-assembled at 4-45 p.m., but owing to the failure of the electric current, the House was adjourned till 3-30 p.m. on Tuesday, the 25th January, 1938.

Adjournment.

The Council then adjourned till 3-30 p.m. on Tuesday, the 25th January, 1938.

Members absent:

The following members were absent from the meeting held on the 24th January, 1938:—

(1) Ahamed, Mr. Nur.
(2) Baksh, Mr. Kader.
(3) Chowdhury, Mr. Humayun Reza.
(4) Ellahi, Khan Bahadur S. Fazal.
(5) Esmail, Khwaja Mahammad.
(6) Khan, Khan Bahadur Muhammad Asaf.
(7) Laidlaw, Mr. W. B. G.
(8) Mookerji, Dr. Radha Kumud.
(9) Mukherji, Rai Bahadur Satis Chandra.
(10) Ray, Mr. Nagendra Narayan.
(11) Sen, Rai Sahib Jatindra Mohan.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Tuesday, the 25th January, 1938, at 3-30 p.m. being the second day of the Session, pursuant to section 62 (*2*) (*a*) of the Government of India Act, 1935.

Present.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the chear.

QUESTIONS AND ANSWERS

Medical students for higher studies.

16. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state—

(*a*) whether it is a fact that every year the Government of Bengal select a few best students (fresh M.B.'s) of the Calcutta Medical College for sending them abroad for higher studies in different branches of medicine and surgery;

(*b*) if the answer to (*a*) be in the affirmative, whether it is a fact that this year, according to this practice, the Surgeon-General to the Government of Bengal selected out of numerous applications three candidates, two Hindus and one Moslem and sent up their names to the Hon'ble Minister;

(*c*) if the answer to (*b*) be in the affirmative, whether the above selections by the Surgeon-General were made according to merit and rules of selection and whether the two Hindus were the best of the whole lot;

(*d*) whether it is a fact that the Government of Bengal turned down the selection of the two Hindus mentioned above and decided to send three Moslem students to England; and

(*e*) if the answer to (*d*) be in the affirmative, had communal considerations been responsible for the removal of the two Hindu names from the list of selected candidates; if not, what reasons led the Bengal Government to select the three Moslems?

MINISTER in charge of the PUBLIC HEALTH and LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Syed Nausher Ali): (*a*) No.

(*b*) to (*e*) Do not arise.

Sanitary Inspectors.

17. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Is the Hon'ble Minister in charge of the Public Health and Local Self-Government Department aware that the posts of Sanitary Inspectors are considered as expensive services by the people of the country?

(*b*) Is he aware of the fact that there is a general consensus of opinion that people could get far better service at an appreciably less cost if Sub-Assistant Surgeons after a course of training were appointed as Sanitary Inspectors?

(*c*) Is he aware of the fact that the people think that two Sub-Assistant Surgeons could be subsidised for each Sanitary Circle with the money now spent over a single Sanitary Inspector?

(*d*) Will the Hon'ble Minister be pleased to state if the Government contemplate the desirability of considering the whole question of sanitary administration and its co-ordination to medical administraton in the near future?

The Hon'ble Mr. SYED NAUSHER ALI: (*a*) I am aware that a section of the people hold this opinion.

(*b*) and (*c*) No.

(*d*) Yes. The matter is under the consideration of Government.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister be pleased to state what is the pay of Sanitary Inspectors together with their allowances and what is the pay of Sub-Assistant Surgeons holding Campbell certificate?

The Hon'ble Mr. SYED NAUSHER ALI: I think I cannot give the exact figure of the pay of the Sub-Assistant Surgeon but I think the pay of a Sanitary Inspector begins from Rs. 50 and goes up to Rs. 100. They get an allowance which is governed by certain rules and which is perhaps determined by the district boards concerned.

Mr. HAMIDUL HUQ CHOWDHURY: Will it be correct if I say that Sanitary Inspectors with their allowance get at the beginning Rs. 80 per month while Sub-Assistant Surgeons usually get at the beginning of their service Rs. 50?

The Hon'ble Mr. SYED NAUSHER ALI: I cannot say whether it is correct or incorrect because I am not in possession of facts.

Mr. HAMIDUL HUQ CHOWDHURY: If that be correct, will the Hon'ble Minister be ready to revise his opinion and if that be the position, will the Government take steps to see that Sanitary Inspectors who hold no medical degree except having six months' training in so-called sanitary matters, are replaced by men with medical qualifications and at a cheaper cost?

The Hon'ble Mr. SYED NAUSHER ALI: The question is a hypothetical one and I do not accept the statement with regard to the qualifications of Sanitary Inspectors as absolutely correct. The whole matter is under the consideration of Government now.

Rai KESHAB CHANDRA BANERJEE Bahadur: Will the Hon'ble Minister be pleased to state whether the district boards will be consulted before any decision is arrived at in this matter?

The Hon'ble Mr. SYED NAUSHER ALI: It is not proposed to change the scale of pay of the existing Sanitary Inspectors at all. I think the hon'ble member who is an ex-Chairman of a district board, is well aware that the present Sanitary Inspectors are on a certain scale of pay and it will be very difficult without a breach of contract to change that scale of pay; that is not for consideration at all. The point for consideration is particularly from another angle of vision namely, what should be the health organisation in the country.

Rai KESHAB CHANDRA BANERJEE Bahadur: If it is found necessary by Government to change the present system of sanitary administration in rural areas, will the Government do away with the services of the existing Sanitary Inspectors?

The Hon'ble Mr. SYED NAUSHER ALI: I do not think it has ever been contemplated.

Extra copyists in Registration Office.

18. Mr. KRISHNA CHANDRA ROY CHOWDHURY: Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) the reasons why outsiders have been taken in the permanent staff of copyists in the office of the Registrar of Assurances, Calcutta, in preference to the claims of the extra copyists possessing necessary qualifications;

(*b*) the reasons why outsiders have been taken in the staff of clerks in this office in preference to the claims of the permanent copyists possessing necessary qualification; and

(*c*) the reasons why in filling the last vacancy in the post of the Bench clerk of the Registrar of Assurances, Calcutta, the claim of the person senior in the service to the person appointed was overlooked?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Education Department): (*a*) and (*b*) As no qualified candidate fit for subsequent employment as clerk was available among the extra copyists, the then Registrar found it necessary to recruit a *muharrir* with higher educational qualification from outside in order to increase the efficiency of the office.

(*c*) Seniority is not the only criterion for promotion to a higher grade. Promotions are given on consideration of seniority and efficiency.

Mr. NARESH NATH MOOKERJEE: With reference to answer (*c*), will the Hon'ble Minister be pleased to state whether in this particular instance the Public Service Commission had anything to do with the promotion?

The Hon'ble Khwaja Sir NAZIMUDDIN: Surely the hon'ble member does not expect the Public Service Commission to be consulted over the appointment of *muharrirs* in a Sub-Registry office.

Mr. NARESH NATH MOOKERJEE: I do not know if it is correct in assuming that in this case seniority was overlooked for the sake of efficiency to the extent that a junior man was taken from a very junior scale of pay to act as Bench clerk?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is not a question, Sir. I would refer the hon'ble member to replies (*a*) and (*b*).

Mortality from several diseases.

19. Mr. NARESH NATH MOOKERJEE (on behalf of Mr. Kanai Lal Goswami): (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state the average moratality from malaria, cholera and kala-azar and other diseases in each of the four thanas of the Arambagh subdivision of the Hooghly district during the last four years?

(*b*) Is it a fact that for want of proper sanitary arrangement as also for want of proper drainage of flood water the condition of public health in Arambagh subdivision is actually deteriorating?

(*c*) If the answer to (*b*) be in the affirmative, will the Hon'ble Minister be pleased to state what steps he proposes to take to remedy the alarming increase in mortality in that subdivision, if any?

The Hon'ble Mr. SYED NAUSHER ALI: (*a*) A statement is laid on the Library table.

(*b*) The subdivision is traversed from north-west to south-east by the river Damodar, some spill channels of this river and the Mundeswari, the Dwarkeswar and the Amudar. On account of the difficulty of communications the rural thana health staff are handicapped in their work. The existence of a large number of marshy and low lying *beel* areas has hampered effective natural drainage to a large extent, thus rendering the whole area waterlogged and unhealthy.

(*c*) A malaria survey in the Arambagh police-station will be carried out during the current year by the Bengal Public Health Department. An anti-malaria scheme for the same area is also under the consideration of that department.

Mr. NARESH NATH MOOKERJEE: With reference to answer (*c*), will the Hon'ble Minister kindly state if any relief is likely to be given before the monsoon starts?

The Hon'ble Mr. SYED NAUSHER ALI: It will all depend upon the result of the survey which is expected to be undertaken early next month.

Mr. HAMIDUL HUQ CHOWDHURY: With reference to answer (*c*), has the Government any scheme for such survey in respect of any other part of the province or is it limited to Arambagh only.

The Hon'ble Mr. SYED NAUSHER ALI: Government have already sanctioned a scheme for malaria survey over the whole province and steps have already been taken for some other areas. This is one of the areas in which steps will be taken during the current financial year.

Reduction of winter paddy crop.

20. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Has the attention of the Hon'ble Minister in charge of the Agriculture and Industries Department been drawn to the remark of the Census Commissioner at page 51 (paragraph 68) of Census of India, 1931, Volume 5, Bengal and Sikkim, Part I, regarding reduction by 75 per cent. of winter paddy crop on account of ravages of the water-hyacinth and early flood?

(*b*) If so, has the Hon'ble Minister taken any steps to stop the ravages?

(*c*) Has the Hon'ble Minister done anything to alleviate the sufferings of the people who are deprived of 75 per cent. of their principal crops?

(*d*) Has the Hon'ble Minister considered the question of introducing any substitute crop in the area concerned?

(*e*) Has the Hon'ble Minister instituted any enquiry for finding out the reason of the early flood in this area which was unknown two decades ago?

(*f*) Is the Hon'ble Minister aware that the people of this area have been trying their utmost to convert the area into *boro* paddy area, but for want of irrigational facilities they are not being able to extend *boro* cultivation?

(*g*) Is the Hon'ble Minister considering the desirability of constructing a road alongside the river Maksha for preventing at least the first onslaught of the early flood?

(*h*) Is the Hon'ble Minister considering the desirability of erecting irrigation *bund* for keeping water in low-lying areas for the facility of growing *boro* crops?

(*i*) Is the Hon'ble Minister considering the desirability of irrigating the area from deep-seated tube-wells?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Agriculture and Industries Department): This answer that had been printed six months ago could not then be answered and has been reproduced here. I have got further information on the subject, since collected, which I would read out:—

(1) The Collector has actively taken up enquiries into this matter and has visited the locality and consulted the local people. He is considering the possible schemes to minimise the chances of yearly floods and the damage caused by them. One of the possibilities is planting of trees along the banks of the river with a view to reaforestation of the area.

(2) Under the guidance of the Subdivisional Officer, Kishorgunj, a good deal of clearance of water hyacinth has been done.

(3) The Irrigation Department strongly advise against any attempt to construct embankments or embanked roads in this area as they will only make matters worse in the long run.

(4) The question of tube-wells is being investigated but I would like to draw the attention of the hon'ble members to the fact that the whole area during the monsoon is under water. It is one sheet of water

and any tube-well ordinarily constructed will be choked up immediately. The possibility of having a tube-well on a raised land is being investigated.

Mr. PRESIDENT: Am I to take it that this answer is in addition to the printed answer? If so, you must read the printed answer also.

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) No, except by means of this question.

(*b*) Does not arise.

(*c*) I am informed that the extent of the damage has been exaggerated by the Census Commissioner. The Collector and the Director of Agriculture assess the damage at about 25 per cent. I am making further enquiries, but I would point out that experience proves that the best method of tackling the water-hyacinth pest is by organisation of voluntary labour for its removal by hand. I do not know if this has been tried in this area, but I am drawing the attention of the local officers to the situation.

(*d*) Successful experiments with *boro* paddy have been made by the Department in the *haor* tract of Kishoreganj subdivision.

(*e*), (*g*) to (*i*) These are matters for the Irrigation Department whose attention is being drawn to the matter.

(*f*) I will make enquiries about this.

Rai KESHAB CHANDRA BANERJEE Bahadur: With reference to answer (*c*), namely, 'I do not know if this has been tried in this area,' what area does the Hon'ble Minister mean here?

The Hon'ble Khwaja Sir NAZIMUDDIN: The area in the Kishorgunj subdivision.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: With reference to answer (*c*) it appears that the reply is not quite to the point. In the reply given it is said that the damage was at about 25 per cent. although I can assert, being a man of the locality, that it was more than 25 per cent.

The Hon'ble Khwaja Sir NAZIMUDDIN: It is quite possible that the damage may be either what the hon'ble member says or what the local officers and the Director of Agriculture have assessed. The point for consideration is whether Government have taken steps for the removal of water hyacinth which is one of the causes of the damage. A considerable area has been cleared of water-hyacinth and so long as the special problems are there, this is bound to happen because it has been an active spill area. The river spills into that

area and until that land is raised high enough, flooding is bound to take place every year. As I have already stated in the answer, the question of reaforestation of that area is under investigation.

Khan Bahadur ATAUR RAHMAN: Who was that officer whose action has been doubted by Government, and if he was inefficient, what action has been taken against him.

The Hon'ble Khwajja Sir NAZIMUDDIN: There is no question of inefficiency. It is an estimate of the damage. An estimate can be this way or that.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: The question is not that water-hyacinth was actually in that area. It was only since last year that any attempt was made regarding clearance or any attempt was made to think about the problem. Is that not a fact although damage is being continued for the last twenty years?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have reminded the hon'ble member that only two years ago Government passed a Bill regarding water-hyacinth and water-hyacinth problem has been before Government for the last ten or fifteen years. Only recently we have found a solution to tackle the problem and that is by hand removal by organising voluntary labour of the people of the locality. That experiment was first successful in Brahmanbaria. Since then other subdivisions have taken it up and Kishoreganj has followed the example.

Mr. LALIT CHANDRA DAS: In answer (*c*) the Hon'ble Minister has said that the best method of tackling the water-hyacinth pest is by organisation of voluntary labour for its removal by hand and he said that he was drawing the attention of the local officers to the situation. Is it not a fact that usually the local officers served notices upon the persons who possess lands and if they did not carry out the order they are prosecuted?

The Hon'ble Khwaja Sir NAZIMUDDIN: If the hon'ble member will only take the trouble to find out what the Legislature has done in the past, he will find that that is the scheme under the Bill which is now an Act.

Mr. LALIT CHANDRA DAS: I am again drawing the attention of the Hon'ble Minister to the wording of the answer given to clause (*c*) of the question, namely, "organisation of voluntary labour". Is it a method of organisation of voluntary labour by service of notices by local offices and then prosecution?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not accept that, but the prosecution is there if people do not carry it out after notice has been given.

Mr. HAMIDUL HUQ CHOWDHURY: The Hon'ble Minister in answer to clause (*i*) says that it is a subject matter for the Irrigation Department. Apart from the question what department of the Government decide these matters, may I ask the Agriculture Department whether they are considering the question of supplying water for the purpose of agriculture in this class of land which is only suitable for *boro* crops on same lines that are being followed by the Government of Assam in the subdivision of Habiganj in the district of Sylhet by supplying water pumps, oil engines and supplying water to these *boro* lands wherein there is no possibility of sinking tube wells. In the same way water can be supplied and people can reap more than one harvest during the year.

The Hon'ble Khwaja Sir NAZIMUDDIN: I have not been able to follow the question; besides I am not aware of what the Assam Government are doing.

Mr. HAMIDUL HUQ CHOWDHURY: The difficulty is that the Hon'ble Minister is not present and it should be expected that the Hon'ble Minister should have been aware of the scheme, or rather experiment, that is going on in a neighbouring part of Bengal, just the next district to the district concerned. In that case the Hon'ble Minister would have been aware that they have succeeded to a great extent in bringing under cultivation a large area of land which otherwise would have remained fallow during cold weather and under water during the rainy season.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, is it fair to assume that the Minister knows whatever experiment is being tried out in other provinces of India? Besides, it is doubtful whether the scheme will be successful, and there are several difficulties and the Minister has already said that the matter is being actively investigated. I would like to know what further can a Minister do.

Rai KESHAB CHANDRA BANERJEE Bahadur: Having regard to the admission made by the Hon'ble Minister that the report of the Census Commissioner was highly exaggerated, are we to take it that all Government reports are exaggerated?

The Hon'ble Khwaja Sir NAZIMUDDIN: It will be equal to the logic which has been enunciated in the question.

Mr. RANAJIT PAL CHOUDHURY: With reference to answer to supplementary question (*c*), will the Hon'ble Minister be pleased to state if there were any snake-bite cases while removing water-hyacinth by hand.

The Hon'ble Khwaja Sir NAZIMUDDIN: I am not aware of it.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: As regards (*c*), is the Hon'ble Minister aware that *boro* area is a different area for water-hyacinth. It is very difficult to remove water-hyacinth by hand because water rush in current from Megna by the side of Assam. So different kind of treatment is necessary. Will the Hon'ble Minister consider the necessity of enquiring into it.

The Hon'ble Khwaja Sir NAZIMUDDIN: We do not claim to have found an infalliable method of removal of water-hyacinth. So far experiments on this matter are going on and one of the successful methods has been the removal by hand.

Loan Offices and Non-scheduled Banks.

21. Mr. NARENDRA CHANDRA DATTA: (*a*) Is the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department aware that the loan offices and non-scheduled banks have been put into a dead lock by the operation of Agricultural Debtors Act?

(*b*) If so, does the Hon'ble Minister contemplate amending the said Act so that the loan offices and non-scheduled banks may realise their dues under the ordinary law and procedure, with restriction regarding the rate of interest?

(*c*) If not, what steps does the Hon'ble Minister propose to take in order to save the depositors' money in those loan offices and non-scheduled banks?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) I am not aware of it.

(*b*) No.

(*c*) Does not arise.

Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister be pleased to state whether any enquiry was made with regard to this question after the question was submitted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: The question did not ask for an enquiry so far as I have been able to follow.

Mr. NARENDRA CHANDRA DATTA: The question dealt with a very important and a very serious matter in the province and it is expected that the Minister should make an enquiry before the answer, "I am not aware of it", is given.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: So far as I have been able to follow the question, I was not aware of this.

Mr. NARESH NATH MOOKERJEE: I am sorry the Hon'ble Minister has not taken the question seriously. May I request him for immediate action in this matter?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: All that I can say is that I will look into the matter but I cannot hold out any promise.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state what steps he has taken in order to become aware or otherwise about this matter?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: The question, Sir, did not ask for any steps to be taken by Government and therefore I did not consider it necessary to take any steps. The question was if the Minister was aware and the answer was plain.

Mr. HUMAYUN KABIR: At the moment the question arising out of the answer (*a*) is, what steps the Hon'ble Minister has taken in order to be aware of the question and not what steps he proposes to take in respect of the matter but in respect of the information which he has acquired or has not acquired.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: It all depends upon the information that we receive from our officers.

Mr. NARENDRA CHANDRA DATTA: Is the Hon'ble Minister aware that Mr. Mrinal Kanti Bose, a representative of the loan offices in Bengal, submitted memorials to the Government of Bengal on this subject?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: He issued a statement in the press and upon that, Sir, I believe we interviewed him and explained to him all the details and I hope that satisfied him.

Mr. NARESH NATH MOOKERJEE: Is the Hon'ble Minister aware that unless immediate steps are taken to find out what the real trouble is, it is likely to upset the entire credit system of this province?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I have already answered the question that if my hon'ble friend gives me some suggestions of the way in which any steps can be taken, I shall be glad to look into the matter.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister be pleased to state whether these non-scheduled banks stand different to the ordinary money-lenders themselves and if a money-lender is going to be accepted if there is any reason why a difference should be made between an ordinary money-lender and these non-scheduled banks?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: So far as the Act is concerned, we have not made any differential treatment between a creditor and a bank.

Rai KESHAB CHANDRA BANERJEE Bahadur: Is the Hon'ble Minister aware that the Bengal Agricultural Debtors' Act cannot be applied against the Co-operative Banks and that that is a great hardship for the loan offices and non-scheduled banks if no arrangement is made for realisation of their dues?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I am afraid my hon'ble friend is entirely wrong. It applies to the Co-operative Societies as well.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister please say if the co-operative banks have been established only to help the indebted class and to save them from these banks and loan offices and if it is the policy of Government to treat co-operative banks or the scheduled banks on the same lines?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Whatever the policy of the Government may be in future, it is a different matter at the present moment. So far as the Act is concerned, it does not make any difference and all the creditors are included in the scope of the Act.

Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister be pleased to state whether Government proposes to change the law so that it may help the depositors to these non-scheduled banks and also rural credit may be established in the *muffasil*?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I would refer the hon'ble member to my answer to clause (*c*) of the question.

Omnibus train from Azimganj to Barharwa.

22. Rai SURENDRA NARAYAN SINHA Bahadur: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state whether the Omnibus service from Azimganj to Barharwa is going to be discontinued?

(*b*) If the answer be in the affirmative, will the Hon'ble Minister consider the desirability of writing to the Railway Board to take such steps as to remove the inconvenience of the public?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Kasimbazar): (*a*) I am informed that no omnibus service runs between Azimganj and Barharwa and that there is at present no proposal for discontinuing the existing light trains running between Katwa and Barharwa.

(*b*) Does not arise.

High schools managed by the public.

23. Khan Bahadur Maulvi MOHAMMAD IBRAHIM: (*a*) Is the Hon'ble Minister in charge of the Education Department aware that high schools managed by the public are ordinarily more progressive than the Government high schools in matter of spreading the secondary education amongst the pupils of Bengal?

(*b*) Is it a fact that the general result of the private high schools have not been less satisfactory than those of Government high schools in the last few years' examination?

(*c*) Is it a fact that the teaching staffs of the private schools are very badly and poorly paid?

(*d*) If so, does the Hon'ble Minister think it desirable that half of the estimated expenditure of these private schools should be borne by the Government?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Education Department): (*a*), (*b*) and (*d*) No.

(*c*) Yes—in many cases.

Edward Coronation Institution.

24. Mr. RANAJIT PAL CHOUDHURY: (*a*) Is the Hon'ble Minister in charge of the Education Department aware that there is an English high school, Edward Coronation Institution, Jiaganj, in the District of Murshidabad?

(*b*) Is the school an aided one?

(*c*) Has its managing committee been recently reconstituted?

(*d*) Is it a fact that—

(*i*) the minutes of the meeting which was held for appointing office-bearers have not yet been confirmed; and

(*ii*) the claims of some teachers are being superseded?

(*e*) Is it a fact that the Secretary of the school—

(*i*) lives at Calcutta; and

(*ii*) cannot look after the school affairs regularly?

(*f*) Is the Hon'ble Minister aware that Babu Surendra Nath Das, a medical man, and municipal commissioner, was a member of the old managing committee?

(*g*) Is the Hon'ble Minister aware that he was re-elected in the new committee by the guardians, at a meeting held for the purpose?

(*h*) Is the Hon'ble Minister aware that the election of the said gentleman was disapproved by the District Magistrate without assigning any reason?

(*i*) Is the Hon'ble Minister aware that the said office was filled up by nomination at the private report and request of Mr. R. S. Trivedi, the then Subdivisional Officer, Lalbagh, without giving opportunity to the electors for a fresh election due last year?

(*j*) Is the Hon'ble Minister considering the desirability of—

(*i*) enquiring into the matter; and

(*ii*) taking steps to stop recurrence of such irregular practice?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Education Department): (*a*) to (*c*) and (*f*) to (*h*) Yes.

(*d*) and (*e*) I have no information.

(*i*) I am aware that the electors were not given an opportunity for a fresh election.

(*j*) I am enquiring further into this case and into the rules governing such cases.

Scholarships for Girls.

25. Mr. NUR AHAMED: (*a*) Has the attention of the Hon'ble Minister in charge of the Education Department been drawn to the unsatisfactory system for distribution of "primary, preliminary and final scholarships" and middle English scholarships to the girls of the different areas of Eastern Bengal owing to the non-reservation of fixed number of scholarships for each district as in the case of the boys?

(*b*) Will the Hon'ble Minister be pleased to state if he is considering the desirability of revising the present system and fix the numbers of these scholarships for each district separately for the sake of uniform encouragement of female education in all districts?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Education Department): (*a*) No complaint has been received against the present system of award of these scholarships.

(*b*) The question of revision of the present system so as to fix the number of these scholarships for each district is under consideration.

Partition of the District of Mymensingh.

26. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if Government are contemplating to partition the district of Mymensingh?

(*b*) If the reply to (*a*) be in the affirmative, will he please state the approximate initial cost of partition and the increase in the recurring expenditure?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) No.

(*b*) Does not arise.

Mr. HAMIDUL HUQ CHOWDHURY: On a point of order, Sir. Can one Minister who is in charge of a department being present, depute another Minister to answer a question?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is not a fact that the Hon'ble Home Minister is in charge of the department. The department is in my charge. The question has been wrongly put to him.

Charitable Dispensaries.

27. Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state, district by district,—

(*a*) the number of charitable dispensaries maintained by the District Boards in Bengal;

(*b*) the number of patients attending such dispensaries;

(*c*) the total cost in purchase of medicines for each district; and

(*d*) *per capita* expenditure for medicines?

The Hon'ble Mr. SYED NAUSHER ALI: The information required is not available in the Secretariat and references have accordingly been made to the various districts. Replies have not yet been received from many districts. The information will be supplied as soon as the materials are available.

Floods in Chittagong.

28. Mr. NUR AHAMED: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state whether it is a fact that due to the recent floods in Chittagong there was a wholesale damage to crops?

(*b*) If the answer to (*a*) be in the affirmative, is the Hon'ble Minister considering the desirability of asking the Collector not to issue certificates for two years in cases of—

(*i*) Government *khasmahal* lands; and

(*ii*) estates under the Court of Wards?

(*c*) If not, why not?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) No, local damage only.

(*b*) and (*c*) The Board of Revenue has issued general instructions to Collectors for dealing with such cases. A copy of these instructions is laid on the Library table. They were issued with the approval of Government.

Title Examinations in Pali.

29. Dr. ARABINDA BARUA: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether Pali

is a subject for title examinations conducted by the Sanskrit Association, Bengal?

(*b*) Is there any institution in Bengal either maintained or aided by the Government for preparing students for title examinations in Pali?

(*c*) Is the Hon'ble Minister aware that representations have been made to proper authorities for a suitable grant-in-aid for the Nalanda Vidyabhavana Central Pali Institute in Calcutta which prepares students for title examinations in Pali and affords facilities to Buddhist monks and novices for higher education and research in Pali and Buddhism?

(*d*) If so, is the Hon'ble Minister considering the desirability of subsidising this institute?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Education Department): (*a*) and (*c*) Yes.

(*b*) Yes. There is only one institution of the name of the Rajanagar Pali Tol (district Chittagong) which is aided by the Government.

(*d*) The matter is under consideration.

Deprovincialisation of Government Schools.

30. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Is the Hon'ble Minister in charge of the Education Department aware that there is a strong demand from the people of the country that the Government high schools should be all deprovincialised and the money obtained as a result of such action should be utilised for primary education?

(*b*) What is the reason for not giving effect to the people's wishes in this matter of deprovincialisation?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Education Department): (*a*) No. The question of deprovincialisation of Government high schools arose out of the recommendations of the Retrenchment Committee. This matter was considered by the former Government and was ultimately dropped.

(*b*) Does not arise.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state if the present Government propose to examine the question again?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not think so.

Mr. HAMIDUL HUQ CHOWDHURY: Is the Government aware that Government institutions impart education to 10 per cent. and unaided private institutions to 90 per cent. of the students? That being so, is it not desirable that Government should in the interest of better educational facilities give up maintaining these Government institutions and divide all available Government grant among the private institutions to ensure better education?

The Hon'ble Khwaja Sir NAZIMUDDIN: Government went into this question most thoroughly and considered all the *pros and cons* and came to the definite conclusion that it would not be to the best interest of the province to deprovincialise the Government high schools.

Mr. NARENDRA CHANDRA DATTA: Which Government came to this conclusion? The past Government or the present?

The Hon'ble Khwaja Sir NAZIMUDDIN: The past Government.

Mr. HAMIDUL HUQ CHOWDHURY: Has the present Government taken into consideration the tremendous change between the present and the past Government?

The Hon'ble Khwaja Sir NAZIMUDDIN: The arguments will be the same, but in view of the point raised, the Education Department may again look into it.

Motion for adjournment.

Mr. PRESIDENT: I received a notice from Mr. Kamini Kumar Dutta that he proposed to ask for leave to move a motion for the adjournment of the business of the House to-day for the purpose of discussing a definite matter of urgent public importance which is as follows:—

"The business of the House do adjourn to discuss a definite matter of urgent public importance, viz., the hunger-strike of the political prisoners in the Dacca Central Jail".

Mr. KAMINI KUMAR DUTTA: On the day I put my motion for adjournment of the House, I had also put a short-notice question on the same subject and I am glad to learn that the Hon'ble Home Minister has accepted that question. I think the reply to that will cover what I want. In view of that I do not wish to press my motion.

Question of Privileges of the House.

Mr. HUMAYUN KABIR: Before the House proceeds to other business, I would like to draw the attention of the House to the question of privileges of the House. This question was raised before and we are still in the position that this House is a Leaderless House. We all know the circumstances in which the present Cabinet was formed when the claims of this House were overlooked. You will be pleased to remember that you gave a ruling that the Leader of the House should be a member of the House. Since then there had been other instances and other matters in which it seems to us that the privileges of this House have been neglected. There have been nominations and appointments by Government to various bodies and in all these cases the claims of the members of this House were overlooked. I shall mention a few instances. There is the Wakf Board to which a member was elected by the other House. The members of this House were not allowed to participate in the voting on that. Then again there was the question of the members of the Board of Film Censors: here also the the claims of the members of this House were passed over. Again there was the question of the Railway Advisory Board or Committee, whatever it may be. Here again the claims of the members of this House were passed over. Again, there was the question of a Select Committee for the Campbell Medical School, and last but not the least, there was the question of the nomination to the Dacca University Court. In that case we find that a large number of nominations were made from other places and in certain cases nominations were of a nature to which members of this House could very well take objection; and in spite of that, the claims of the members of this House were overlooked. I would, therefore, draw the attention of the Hon'ble the President—I think there are other cases also; I hear other cries being raised and I am sure they will add their voice to mine. I speak of the facts of which I am aware, and I would draw the attention of the Hon'ble the President for taking such steps as he may think fit in order to maintain the privileges of this House. I believe it would not probably be going outside the scope or powers of this House if an adjournment of this House is moved on a question like this. But before doing that I would like to know what the Government have to say on the matter. In any case, as the custodian of the privileges of this House, we place these facts in your hands.

Mr. PRESIDENT: Mr. Humayun Kabir has raised a very important question about the privileges of the House. The procedure in some other parliaments is to have a Committee of Privileges appointed by the House itself, and the committee, in the first instance, goes into details and formulates proposals which are brought before the House for its decision. I think it advisable to appoint a Committee of

Privileges and the committee should go into details of all such instances. We shall have to fix a day for the appointment of a committee to be elected by the House which should go into each of these individual cases and other instances of breach of privilege that may come to the notice of the members of this House. I should like to hear hon'ble members on this subject.

Mr. SHRISH CHANDRA CHAKRAVERTI: Will you kindly let this House know if any member can send in a resolution or motion for this purpose, or how this Committee of Privileges is to be appointed. Who will send resolutions on this matter?

The Hon'ble Khwaja Sir NAZIMUDDIN: If that is the wish, Government will bring in a motion for the appointment of a Committee of Privileges. If you will permit, I would like to submit one or two things. First of all, what are the privileges of this House which have been denied to it, and what are the privileges that have been infringed. I doubt if it will be consistent with the dignity of the House to maintain that, because its members have not been appointed to the Board of Film Censors, the privileges of this House have been violated.

Mr. PRESIDENT: The House need not go into the merits of individual instances at this stage. It will appoint a Committee of Privileges for the purpose.

Mr. RANAJIT PAL CHOUDHURY: May I remind the Hon'ble Home Minister that members of the previous legislature—I mean the Legislative Council previous to this constitution—were automatically members of the local jails and they were also——

Mr. PRESIDENT: Order, order. All these cases will be discussed by the Committee of Privileges. We are only to-day settling the procedure to be followed and it will be the duty of the Committee to go into each individual instance.

Mr. BANKIM CHANDRA DATTA: As regards the personnels of the Committee, may I request you, Sir, to nominate the members as the President of this House?

The Hon'ble Khwaja Sir NAZIMUDDIN: The House will elect the members when Government will introduce the motion.

Mr. PRESIDENT: Now it is settled that Government will introduce a motion and the House will nominate a Committee and not the President.

Agreement with the Reserve Bank of India.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, may I, with your permission, lay before the Council the agreement made with the Reserve Bank of India under section 21(*4*) of the Reserve Bank of India Act, 1934?

Mr. RANAJIT PAL CHOUDHURY: May I make a submission, Sir? The copies of this agreement with the Reserve Bank of India are just being handed over to us and it will be very difficult for us to open any discussion without going through this and studying it properly. So, may I suggest that another day be fixed for its discussion?

Mr. NARENDRA CHANDRA DATTA: Already it is a completed document and what would be the value of a discussion? I cannot see any. The Hon'ble Minister did not think it worth while to place it before the Council before the agreement was entered into. There are many things in it which are very much against the Government of Bengal. The interest of Bengal was overlooked. It is only an one-sided document not in favour of the people or of the Government but in favour of the Reserve Bank.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Under the provision of section 21(*4*) of the Reserve Bank of India Act, a copy of the agreement has to be placed before the Provincial Legislature. That is what is being done now. The provision is after the agreement is entered into and not before.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: It is only for information.

Mr. HAMIDUL HUQ CHOWDHURY: If it is suitable to Government and if the Council so thinks, a time may be fixed for discussing the agreement. There will be a discussion, provided there is anything to discuss; otherwise it will automatically drop.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, Government do not propose to shut out discussion, but I may just submit for the information of hon'ble members that this agreement was also placed before the Indian Legislature and they accepted it without discussion.

Mr. PRESIDENT: I do not think the precedent of the Central Legislature bars this House from discussing this agreement if it so desires. I find that section 20 of the Reserve Bank of India Act, 1934, deals with the obligation of the Bank to transact Government business. Section 21 (*1*) says that "the Governor-General in Council and such

local Governments as may have the custody and management of the own provincial revenues, shall entrust the Bank, on such conditions a may be agreed upon, with all their money, remittance, exchange an banking transactions in India, and, in particular, shall deposit free o interest all their cash balances with the Bank." Sub-section (*4*) o section 21 says that "Any agreement made under this section to whic the Governor-General in Council or any local Government is a party shall be laid as soon as may be, after it is made,"—I think the agree ment was made in August and this House was sitting then. I do no find any cogent reasons why this report could not have been placed earlier.

However, I think that instead of the House offering any remarks now, hon'ble members should study this agreement, and if after that they think that there is any ground for making any comments, they should approach Government and a date may be fixed later on, if considered necessary. It cannot be discussed to-day, for no hon'ble member has yet been able to go through the agreement.

COVERNMENT BILL.

The Bengal Famine Insurance Fund Bill, 1937.

Mr. PRESIDENT: The House will now resume discussion on the Bengal Famine Insurance Fund Bill, 1937.

Clause 4.

Mr. HUMAYUN KABIR: Sir, I beg to move that to clause 4, the following be added——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I just rise to a point of order at this stage? I understand Mr. Kabir is moving his amendment No. 4 of the Appendix to the List of Business.

Mr. PRESIDENT: Mr. Kabir, have you moved your amendment?

Mr. HUMAYUN KABIR: No. Sir, I was only half-way through it.

Mr. PRESIDENT: Please let him move it first and then Sir Bijoy Prasad can raise his point of order.

Mr. HUMAYUN KABIR: Sir, I beg to move that to clause 4, the following be added, namely,—

"and shall thereafter make an annual contribution of five lakhs of rupees till the fund attains the figure of twenty-five lakhs of rupees."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: My point of order which I raise now, is this, Sir. The hon'ble member cannot introduce this amendment without the previous sanction of the Governor under section 82 of the Government of India Act, 1935.

Mr. PRESIDENT: Let me first understand the point of order.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Under sub-section (*1*) of section 82 of the Government of India Act, 1935, a Bill or amendment making provision for imposing or increasing any tax or for declaring any expenditure to be expenditure charged on the revenues of the province or for increasing the amount of any such expenditure, shall not be introduced or moved except on the recommendation of the Governor, etc., etc. Here is a proposal for increasing the amount of "any such" expenditure——

Mr. PRESIDENT: Increasing the amount of "any such" expenditure: what does "such" mean?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: "Such expenditure" means expenditure charged on the revenues.

Mr. PRESIDENT: Your contention is that under clause 8 it is contemplated that the amount will be charged upon the revenues of the province and, therefore, previous sanction of the Governor is necessary. Is that your point?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir. That is so.

Mr. PRESIDENT: Mr. Kabir, what is your answer to this particular point?

Mr. HUMAYUN KABIR: If I have understood the Hon'ble Minister aright, his point seems to me that, since there is a subsequent provision which the House may or may not accept, viz., that these amounts are to be charged on the revenues of this province, therefore, at this stage, before the House has given any opinion on that matter, we are debarred from making any amendments simply in order to satisfy the fond anticipation of the Hon'ble Minister that that clause will be passed. I submit, Sir, that it would be a breach of the privileges of this House to commit it at this stage to any acceptance of clause 8 of this Bill. That clause will be taken up in due course when it comes up before the House. At this stage that question does not arise. Further, even if clause 8 be passed, it may be passed

with the amendment that Rs. 12 lakhs, for which provision has bee made by Government, will be charged to revenue. There is nothin to prevent the House from making such an amendment. I, therefore submit that the point of order raised by the Hon'ble Minister is n point of order at all.

Mr. NARENDRA CHANDRA DATTA: Mr. President, Sir, with regard to the point of order that section 82 of the Government of India Act, 1935, is a bar to the moving of the amendment by my friend Mr. Kabir, my point is this: it is not an expenditure, but the money is going to be put into reserve for a particular purpose. It is a saving, so to say. So, this clause has nothing to do with that. It is not an expenditure. We are going to save the money; we are going to put it aside for further use. So, section 82 of the Government of India Act has nothing to do with the amendment moved by my friend Mr. Kabir.

Mr. KAMINI KUMAR DUTTA: Mr. President, Sir, may I suggest that clause 8 may be taken up before this amendment is considered?

Mr. HAMIDUL HUQ CHOWDHURY: Sir, in reply to my friend there, I may state that he is not correct, because clause 5 of the Bill says that it shall be an expenditure. Therefore, it will be a fund for the purpose of expenditure. So it does not seem right to consider this fund as a reserve fund; since it says that it shall be an expenditure, therefore, it comes under sub-section 82 (*1*) (*c*) of the Government of India Act, 1935. But, so far as sub-section (*c*) being a bar to this amendment is concerned, it will be interpreted in accordance with the rights of this House. If this House passes an amendment which will have the effect of coming into conflict with sub-section (*c*), it will be interpreted as subject to sub-section (*c*). In other words, so much of it for which there has been no sanction by the Governor or considered on his recommendation, shall not be a matter charged to the revenues. Government will be entitled to give the amount provided by the Act according to the votes of the House, which is entitled to vote upon it. And if there is a vote, the amount will be provided; and if there is no vote, there will be no provision. So far as the initial contribution of Rs. 5 lakhs by Government is concerned, that will be charged; and, similarly, the provision of Rs. 12 lakhs will be charged; any increase made upon that will not be charged to the revenues, and if there is anything more that is necessary, we can by a consequential amendment accept a proviso to clause 8 saying that any excess amount which is voted by this House shall not be subject to the revenues of the State.

Mr. PRESIDENT: I think Mr. Kabir wanted to say that we should not anticipate the other clauses but deal with this clause in the ordinary way, because, if clause 8 is not accepted, the question will not arise at all. But, is it not better that we take up clause 8 now, as suggested by Mr. Kamini Kumar Dutta, because in all the intervening clauses the same point is involved. So, I direct that clause 8 be taker up now.

We shall, however, adjourn for prayer now, and shall meet again at 4-40 p.m.

Mr. HUMAYUN KABIR: On a point of information, Sir. Shall we be allowed to put in short-notice amendments to clause 8—I mean only consequential amendments?

Mr. PRESIDENT: Of course, you will be allowed to put in short-notice amendments. You can prepare your amendments during the prayer interval.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I hope, Sir, that the amendments will be purely consequential and not substantive ones.

Mr. PRESIDENT: Yes, they should be only consequential.

Mr. NAZIRUDDIN AHMAD: Sir, may I respectfully point out that if we take up clause 8 out of its turn, it may lead to difficulties. I submit that if we pass a clause like this, that expenditure contributed under the Act shall be declared to be expenditure charged upon the revenues of the province, without deciding what the charge would be, we would be committing ourselves to something which is absolutely unknown. The difficulty which strikes me——.

Mr. PRESIDENT: I think there will be no difficulty because it is going to be decided just now whether it will be a charge or not a charge on the revenues. If it is to be a charge on the revenues of the province, it will not be included in the Demand for Grants; otherwise it must be included in the budget, and the Lower House wil have all the rights as in a demand for grants. This House is now to decide the question whether these amounts shall be treated as a charge on the revenues or not.

As I said before, I now adjourn the House and we will meet again at 4-40 p.m.

Adjournment for prayer.

(The Council then adjourned at 4-25 p.m. for prayer.)

After adjournment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Before you take up this matter, may I just draw your attention to one other point upon which I base my objection, namely, section 82(*1*)(*c*) of the Government of India Act, 1935. I venture to submit that in addition to section 82 (*1*) (*c*), clause (*b*), namely, for regulating any financial obligation undertaken or to be undertaken by the province, also comes under that.

Mr. PRESIDENT: It is "for regulating the borrowing of money or the giving of any guarantee by the province, or for amending the law with respect to any financial obligations undertaken or to be undertaken by the province." It is not "for regulating the giving of any guarantee".

The Hon'ble Sir BIJOY PRASAD SINGH ROY: My point is whether this interpretation is not a plausible interpretation for regulating any financial obligation.

Mr. PRESIDENT: The words "Financial obligations" have been used with reference to the words "amending the Law". The interpretation given by the Hon'ble Minister is not correct.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: If that is your ruling, Sir, I cannot press my objection but I think that might be a plausible reading of the clause.

Mr. HAMIDUL HUQ CHOWDHURY: Are we to understand that clause 8 of the Bill will be taken up first?

Mr. PRESIDENT: I would take up clause 8 first and it will be for the House to decide whether this amount should be a charge on the revenues of the province or a votable demand. As the point has already been raised and all subsequent clauses 4, 5 and 6 involve the same issue, I would like to take up clause 8 first.

Mr. HAMIDUL HUQ CHOWDHURY: I submit that the question of clause 8 coming up first will not keep alive the question of consequential amendments. Unless there is an amendment, the consequence of which requires clause 8, there is no question of a consequential amendment because there is no consequence following. The maximum that is provided is Rs. 12 lakhs and if there is some amendment which increases the amount from 12 lakhs to 25 lakhs and if it is agreed to

by the House, then there will be the consequential necessity of having a clause. Therefore I submit that you will take up the amendments in the order in which they are given.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I agree with Mr. Hamidul Huq Chowdhury that clause 8 is an independent clause and I do not think there is any reference to this clause in the previous part of the Bill. So the question of consequential amendment does not arise.

Mr. PRESIDENT: I think I have not been able to make my point sufficiently clear. The question of obtaining the previous sanction of the Governor arises only if we anticipate that clause 8 will be accepted. That was the point raised by the mover. Mr. Humayun Kabir has made it clear that the question of previous sanction will arise only if we anticipate that clause 8 will also be accepted. So far as the clause that was passed yesterday, raising the amount from Rs. 5 lakhs to 10 lakhs, there was no necessity for obtaining the Governor's previous sanction because there is a clear provision of Rs. 12 lakhs in the Bill. But if we accept this clause now, automatically the sanction of the Governor becomes necessary as we would be increasing the amount beyond the provision made in the Bill. Therefore if once for all the House decides whether they will make this amount a charge on the revenues of the province, then the question whether sanction of the Governor is at all necessary will arise.

Mr. HAMIDUL HUQ CHOWDHURY: So far as I understand, the sense of the House is in favour of some amount being charged on the revenues of the province but we are talking of the consequential amendment. So far as the amendment raising the amount from 5 to 10 lakhs of rupees is concerned, that is not necessary. Therefore I say that if the amendment which provides or requires the Government to make a contribution of 25 lakhs is accepted, the consequence will follow and we need not disturb clause 8 at all.

Mr. HUMAYUN KABIR: I submit that till there has been some decision on amendment No. 4 the question of a consequential amendment will not arise as pointed out by Mr. Hamidul Huq Chowdhury. We have nothing before us to suggest an alteration in any direction.

Mr. PRESIDENT: By your present amendment you want to raise the sum to 25 lakhs instead of 12 lakhs, and therefore your amendment comes directly under the mischief of section 82 (*3*) of the Government of India Act, 1935. If you insist on your amendment so long as clause 8 is there, you will necessarily require the previous sanction of the Governor. May I enquire if you have asked for the permission of Government for previous sanction for moving this amendment?

Mr. HUMAYUN KABIR: I was submitting that clause 8 is not at all before the House at the moment and that, therefore, it has not been decided by the House. It has been decided by another House that all these amounts shall be charged on the revenues of the province. If you want Rs. 25 lakhs to be charged on the revenues of the province, it will come under the penalty of section 82(*1*)(*c*) of the Act as pointed out by you. We may later on amend clause 8 if it is necessary. At the moment it is not. We cannot discuss clause 8 at the moment.

Mr. PRESIDENT: There is no notice before the House or even to me about any amendment and it is entirely discretionary for the President to accept such an important amendment without notice.

Mr. LALIT CHANDRA DAS: I think, Sir, clause 8 should be taken up now. There is a point of order raised by the Hon'ble Minister to the effect that this amendment cannot be taken up. When an amendment is made proposing to raise the Government contribution from Rs. 12 lakhs to Rs. 25 lakhs, the President will have to decide whether it is in order. Therefore I think before your ruling is given on this point, clause 8 of this Bill should be first decided, namely, whether it will be charged on the revenues of the province or not.

Clause 8.

Mr. PRESIDENT: The question before the House is that clause 8 stand part of the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I think that it is absolutely necessary that this expenditure should be a charge on the revenues of the province and that it should not be varied by the vote of this House from year to year. It is an insurance measure and Government ought to be able to know what amount would be at their disposal in the following year. The Government of India Act, 1935, provides for expenditure which are charged on the revenues and for expenditure which are otherwise charged. I venture to say that the famine insurance fund is certainly one of the most important expenditures which ought to come under the category charged on the revenues of the province and it should not be allowed to vary from year to year or Government should not be compelled to place it before the legislature every year. So that question should be decided first, and in my opinion clause 8 should be retained, as it is, without the slightest variation or modification.

Mr. LALIT CHANDRA DAS: Sir, I want to make a short-notice amendment to clause 8, namely, that all contributions up to Rs. 12 lakhs made under this Act to the fund are hereby declared to be expenditure charged upon the revenues of the province.

It is consequential in this way. It is by the Act itself that Government have decided that the contribution should be up to Rs. 12 lakhs. When we mention it here, it is consequential. It follows as a matter of course.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Certainly not.

Mr. LALIT CHANDRA DAS: One is consequential to the other. When I put it in that way, it becomes consequential.

Mr. PRESIDENT: Clause 8 provides that up to Rs. 12 lakhs is to be a charge on the revenues of the province. Will you please write out your amendment and hand it over to me?

I have got notice of four short-notice amendments. The first is from Mr. Lalit Chandra Das which proposes that the word "All" in clause 8 be dropped and after the word "contribution" the words and figure "up to 12 lakhs" be added. I hold that this is not a consequential amendment because there is no provision for 12 lakhs in any clause that has been accepted by the House. So this goes out.

Another is from Mr. Hamidul Huq Chowdhury which suggests that the word "All" be deleted and the words and figure "Up to 12 lakhs" be added after the word "contribution". It is also not a consequential amendment because the House has not yet passed any clause accepting the amount to be Rs. 12 lakhs.

The third one is from Mr. Narendra Chandra Datta which wants that the words "to be" be inserted after the words "All contributions" and before the words "made under this Act to the Fund, are hereby declared to be expenditure charged upon the revenues of the Province". It is merely a verbal amendment. It is for the Hon'ble Minister to accept it or not. It is not a consequential one.

Then the fourth amendment is from Mr. Humayun Kabir. He suggests that up to 10 lakhs or any larger figure, to be decided by the Legislature on the motion of the Government. A part of it is in order but there is also provision for any larger figure to be decided by the Legislature. That will bring it under the mischief of section 82(*1*)(*c*) of the Act and the previous sanction of the Governor will be necessary. So, if the previous sanction of the Governor has not been obtained yet, this amendment also cannot be moved in the House now.

I have considered all the four amendments and for the reasons I have given, I rule them to be out of order.

The question then before the House is that clause 8 stand part of the Bill. If anybody desires to speak on this motion he may do so.

Mr. KAMINI KUMAR DUTTA: Sir, I oppose the whole of this clause. Really, it is because of this clause that objection could be

raised for obtaining the previous sanction of the Governor for any amendment and what advantage do we get from this sanction? The only advantage is this, that it will not be placed before the votes of the representatives of the people. But I think, Sir, we ought to have sufficient confidence in our representatives and we need not entertain any misapprehension that our representatives will fail to allot adequate amount at the time of each year's budget for this particular purpose. There is no reason for us to lose heart in the matter, and as I have said, I have every reason to think that whenever this matter will come up before the representatives of the people for the allotment of the amount required for the purpose, there will be no failure on the part of the representatives in the discharge of their duties to the people.

On the other hand, it appears that the only advantage which we can get by having this clause inserted in the Act would be to make it free of votes. There is some apprehension in this respect but I think we need not at all be apprehensive of any unfortunate result if this clause is deleted altogether. I expect that each one of us will vote for the deletion of this clause. There is some talk about some portion of the grant being votable and some non-votable and indeed opinions differ as to what particular item should be votable and what non-votable. But I say we need not tread upon dangerous grounds; it is safest to delete the clause and reject it.

Mr. HAMIDUL HUQ CHOWDHURY: The real object of the Bill, as we have seen, is to provide for emergencies which arise from time to time and to provide just the bare means of rendering help to the famine-stricken people. This fund was started in the time of Lord Curzon when India was visited by one of the worst famines that have ever visited her. That being the position, there is the question of recurrence of famine in Bengal and Government have admitted that they have to provide on an average Rs. 60,000 each year for famine in one or other part of the province. It is also not unusual to see floods every year and there is no year when there is no famine in one or other part of the province. The only question that arises is, what should be the amount that should be set apart as a guarantee and made available to the Government for providing relief at a time when distress occurs in the province. We have considered that the amount that has been fixed in the Bill, namely, Rs. 12 lakhs, is quite inadequate. This being in the nature of a capital grant it would not have——

• The Hon'ble Sir BIJOY PRASAD SINGH ROY: On a point of order, Sir. The hon'ble member is not speaking on the motion before the House; he is probably speaking on another motion, namely, whether the amount should be 25 lakhs or 12 lakhs. The present question is whether the amount is to be charged to revenue or it should be votable amount—that is, the question before the House.

Mr. HAMIDUL HUQ CHOWDHURY: I am surprised at the point of order raised by the Hon'ble Minister because in order to introduce a subject, I have to argue my point a little. The necessity of providing a larger amount has arisen, but now a technical difficulty is sought to be raised against us. In order to remove that, this clause has been taken before the clauses on which Mr. Humayun Kabir has got some amendments to raise the amount. The purpose for which we are discussing this is to raise the amount. That being so, we can only raise it by rejecting this clause. Everybody wants to provide sufficient funds to meet these emergencies. But we are asking for no recurring grant about which Government are apprehensive. We are only asking for a capital grant. If Government are going to get a larger amount of money on account of the fact that there is a surplus in the Railway Budget, the question of annual contribution disappears. Therefore I commend it to the House to accept this amendment to delete the clause. If we delete this clause, we should be left free to give our minds to the other proposals and ensure an increased capital grant for meeting emergencies like famine. We want a really large sum to be kept apart.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: There has been some misunderstanding in the matter. The question is how much money should be kept as reserve for this insurance for famine under non-votable items. Now, so far as the amount is concerned, it is practically a reserve fund which will remain at the disposal of the Government for expenditure without having to come to the Legislature for sanction. To meet emergencies you always require some money to be kept in reserve to be spent suddenly and that is the sum that is being provided here.

Mr. HUMAYUN KABIR: I am very glad to find from what the Hon'ble Minister has just now said that he really supports the motion for the throwing out of this clause. He admits that Government want a capital grant, a fixed sum of money, out of which expenditure may be incurred for giving relief in case of famine. He has also admitted our claim for a larger amount than that provided in the Bill which Government have brought forward. If the Hon'ble Minister admits, as he has done just now, that it is a capital expenditure out of which, without going to the Legislature, and without eating into the body of that capital, the Government will be able to undertake relief operations, we are committed to the principle that such relief will not come from the body of the capital itself but from the interest accruing to it. We find that Government wants this capital grant to be there at all times as an insurance against famine. In that case it follows that the amount must be very much larger than what has been provided in the Bill That is the purpose of my amendment.

I may in this connection mention, as has been done by Mr. Hamidul Huq Chowdhury, that floods are no occasional visitations in this province; they are no exceptions; they are annual occurrences in some district or other. Similarly with regard to famine. We therefore know that Government will have to spend every year a large sum from their capital grant for famine relief if they are serious; but what generally happens, is that they are reluctant to declare a famine or flood,—they call it serious distress or failure of crops. If there is a famine, the capital will be eaten into. If the capital falls below 12 lakhs, the Government must contribute to bring it up to that figure. The result is that Government do not want to declare a famine and do not want to spend from the fund. But if the interest of the fund is adequate, if the Government can afford relief without eating into the body of the capital, there will be no incentive for the Government to deny that there is a famine in existence. It is therefore we suggest that a much larger sum must be provided than that provided in the Bill.

In this connection I may also say that Rs. 25 lakhs is a very small figure for giving relief in case of famine or flood or other calamities. I may bring to the notice of this House the kind of relief given in other countries for such purpose. If we look to the figures of winter relief alone in Germany, we find that Germany spends 3,70 million marks from October to March in giving winter relief. I may also further add that out of this 3,70 million marks, only one per cent. is spent as cost of administering relief. 3,70 million marks come to over Rs. 30 crores and that amount is spent for relief only during the winter months. Compared with that figure, the sum we seek to provide in our Bill is a very small one. I submit that it is the duty of every member of this House to throw out this clause and allow a much larger sum for giving relief to the people of Bengal.

Mr. LALIT CHANDRA DAS: Sir, I rise to oppose the inclusion of clause 8 in this Bill. We have heard the speech of the Hon'ble Minister on the one side and the speeches that have been delivered by the members of the House on the other. It is apparent that there is a competition of anxieties between the parties. Government is anxious that a sum of Rs. 12 lakhs should be insured against famine and the representatives of the people in this House say that it is a very small amount and that it should be raised to a higher figure—Rs. 25 lakhs, and that it should be made votable. But the anxiety of Government is that it should be made non-votable. Why? Because Government think that at least there is safety up to Rs. 12 lakhs. The representatives of the people think that there is no safety in making it non-votable up to 12 lakhs. If anybody suffers, it is the people and if the people suffer it is the foremost concern of the representatives of the people in this House as well as those of the Assembly to see that a proper sum is kept for this

purpose. Hence the anxiety has been expressed by their speeches also by the amendments.

Now, the consideration of clause 8 has come before the consideration of other clauses, because there has been already a discussion about raising of the figure from 12 lakhs to 25 lakhs. This will come up for consideration when the House takes up clause 5 of the Bill.

Under these circumstances, Government knows that as a matter of fact we are very anxious to raise the figure from 12 lakhs to 25 lakhs. The intention is already clearly expressed in the amendments of clause 5 so that there need not be any anxiety on the part of Government that it will not be voted by the representatives of the people. On these grounds I oppose the inclusion of clause 8 in the Bill.

Mr. NAZIRUDDIN AHMAD: Mr. President, Sir, I also rise with some amount of anxiety on my part to oppose the motion to delete this clause. Clause 8 simply declares that "all contributions made under the Act" would be declared to be expenditure "charged upon the revenues" of the province, that is, should be made non-votable. I submit that the inclusion of this clause will not only cause no harm but will be absolutely necessary for the satisfactory working of the Act. The Bill provides that a certain amount will be absolutely fixed and up to that minimum amount it will be non-votable. A famine insurance fund, in its very nature, should be handy and readily available and absolutely fixed and up to that limit should not be made perpetually to depend on the fluctuating temper of the Assembly. If any extra money is wanted, it is always up to the other House to vote for it; Government may include it in the budget or any member may try to put it before the Assembly and get a suitable grant passed for an increased amount. That power is always there. If clause 8 is passed, it will save the fund from many fluctuations and uncertainties and automatically maintain a standard level. The effect of its rejection will be that the very existence of the fund will be uncertain and the other House will have to decide its fate from time to time. If we accept clause 7, it will fix and automatically maintain the fund at Rs. 12 lakhs and clause 8 will ensure its automatic replenishment in case of an expenditure. A fund for philanthropic purposes is non-contentious and no intelligible or useful purpose will be served by making its existence or its amount a subject of perpetual speculation.

I therefore oppose the deletion of this important and highly beneficial clause.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The question before the House is whether clause 8 should form part of the Bill or not. That is the only question that we are discussing at present. Clause 8 of the Bill proposes that the Famine Insurance Fund should

be a charge on the revenues of the province so that it should not be necessary for Government to place it year after year before the Legislature and to obtain their vote on that grant. That is the sole point under discussion. The question whether the amount in the Famine Insurance Fund should be 12 lakhs or 25 lakhs is absolutely irrelevant so far as the present discussion is concerned. In this connection I venture to point out that even if the amount in the Famine Insurance Fund is increased to Rs. 25 lakhs, Government liability of expenditure in giving relief to the people can never be limited to Rs. 25 lakhs. If necessary, they may have to spend up to one crore of rupees. So, merely by limiting the fund to Rs. 25 lakhs or to Rs. 12 lakhs, you do not put any limit to Government's liability to spend money for famine relief. It must be remembered that it is an insurance fund, so that Government may know what funds are available, and in case of a major calamity what amounts will be quite handy. Rs. 12 lakhs in the opinion of Government is quite sufficient, and if any additional amount is necessary, then they can always come to the legislature for a supplementary demand.

Sir, in a matter like this we go by previous data, and our data for a number of years show that our expenditure on famine relief never exceeded Rs. 60,000 a year on an average. Suppose, the present Government in their liberality and sympathy for the people are inclined to spend three times that amount, *i.e.*, Rs. 1,80,000 or Rs. 2,00,000, there will still be left a balance of Rs. 10 lakhs; so, where is the dearth of money? How can it be said that Rs. 12 lakhs is not sufficient as an insurance fund? That is a point which I want to impress upon the hon'ble members of this House. It is merely an insurance fund that we are providing for, and it does not place any limit on the capacity of Government or on the financial liability of Government for spending money on famine relief. By raising Rs. 12 lakhs to Rs. 25 lakhs, we simply deprive the other departments of Government of the benefits of expending money which will be locked up in this department. That is not a very sound canon of finance, and that is a point which hon'ble members should realize. It does not mean that Government are reluctant to spend more money on famine relief or where it is necessary; it only means that Government consider that according to their past experience Rs. 12 lakhs is sufficient for meeting the expenditure for famine relief when necessary. If more money is necessary or if more maney is required, Government will certainly not hesitate to come to the Legislature with a supplementary demand. (Question!) As regards making this grant a charge on the revenues of this province, it is only fair that Government should know what amount is there in the insurance fund, and an expenditure like this ought not to be votable year after year. The Government of India Act, 1935, provides for votable

expenditure and non-votable expenditure. This is certainly one of the items which should be charged on the revenues of the province.

With these words, Sir, I strongly commend to the House clause 8 of the Bill and request hon'ble members to vote in favour of it.

Mr. RANAJIT PAL CHOUDHURY: I move that the question be now put.

Mr. PRESIDENT: The question before the House is that clause 8 stand part of the Bill.

The Council divided:—

AYES—19.

Ahmed, Mr. Nazirudddin.	Karim, Khan Bahadur M. Abdul.
Ahmed, Mr. Masbahuddin.	Laidlaw, Mr. W. B. G.
Banerjee, Rai Bahadur Keshab Chandra.	McFarlane, Mr. J.
Barua, Dr. Arabinda.	Ormond, Mr. E. C.
Cohen, Mr. D. J.	Rahaman, Mukhlesur.
D'Rozario, Mrs. K.	Rashid, Khan Bahadur Kazi Abdur.
Ellahi, Khan Bahadur S. Fazal.	Singh Roy, Mr. Saileswar.
Haider, Nawabzada Kamruddin.	Stokes, Mr. H. G.
Hossain, Mr. Mohamad.	Wilmr, Mr. D. J.
Huq, Mr. Syad Muhammad Ghaziul.	

NOES—18.

Chaudhury, Mr. Moazzamali.	Ibrahim, Khan Bahadur Maulvi Mahammad.
Chowdhury, Khan Sahib Abdul Hamid.	Kabir, Mr. Humayun.
Chowdhury, Mr. Rezzaqul Haider.	Maitra, Rai Bahadur Brojendra Mohan.
Chowdhury, Mr. Hamidul Huq.	Pal Choudhury, Mr. Ranajit.
Das, Mr. Lalit Chandra.	Poddar, Mr. H. P.
Datta, Mr. Bankim Chandra.	Rahman, Khan Bahadur Ataur.
Datta, Mr. Narendra Chandra.	Sanyal, Mr. Sachindra Narayan.
Dutta, Mr. Kamini Kumar.	Shamsuzzoha, Khan Bahadur M.
Hosain, Khan Bahadur Saiyed Muazzamuddin.	Sinha, Rai Bahadur Surendra Narayan.

The motion was adopted.

Adjournment for prayer.

The Council then adjourned at 5-42 p.m. for prayer.

(After adjournment.)

Clause 4.

Mr. PRESIDENT: The question before the House is that clause 4, as amended, stand part of the Bill.

Motion was put and agreed to.

Clause 5.

Mr. PRESIDENT: The question before the House is that clause 5 stand part of the Bill.

Mr. LALIT CHANDRA DAS: Sir, I beg to move that before the proviso to clause 5 and after the words "natural calamities", the following be added, namely:—

> "and the expenditure for relief as above stated will be undertaken at the direction and control of a Committee of not exceeding twelve members taken half by half from both the Houses, five of whom will form a quorum".

In order to understand the amendment, I should like to read clause 5 of the Bill. It runs as follows:—

> Expenditure from the Fund shall not be incurred except upon the relief of famine and the relief of distress caused by serious drought, flood, earthquake or other natural calamies.

And to this the amendment that I desire to put in is,—

> "and the expenditure for relief as above stated will be undertaken at the direction and control of a Committee of not exceeding twelve members, taken half by half from both the Houses, five of whom will form a quorum".

Sir, it is not enough that you vote for the sum. We want a machinery to carry out the purposes of this Act. Of course, there are District Magistrates, Subdivisional Officers and other permanent officials to carry out the behests of Government. We want something more. We want a machinery—a committee consisting of our own men taken from both the Houses—for the purpose of quick action and speedy relief. Government have so many things to do. We may have an ear-marked Committee, so to say, in order to direct and control the expenditure from this fund. I respectfully submit that this central committee must have local committees. This statutory power, if given to the central committee, will carry with it the inherent power of forming local committees in different parts of the province, consisting of officials and non-officials representatives, to take the field as soon as an emergency occurs, brought about by famine, flood or any other natural calamities. Now, Sir, it will be one of the duties of the central committee to set up the local committees. Again we find in clause 9 that the provincial Government may make rules consistent with this Act, for the purpose of giving effect to the provisions of this Act. This, I

submit, will give power to the central committee to set up local committees throughout the province. They can set up standing committees for every district and every subdivisional town so that when an emergency occurs, steps can be taken immediately. Past experience shows that when a famine occurs or flood devastates any particular area or a natural calamity takes place, Government officials are very slow to take the field. We find people forming themselves into committees, holding meetings, sending telegrams to the Press, starting relief work, and when relief work has advanced a great deal, we find Government officials coming into the field. All that we do see is that when they do come, the purse-strings are held so tight and so many conditions are imposed that the grace of rendering relief, as has oftentimes happened, is taken away. Therefore I take it that for an earmarked fund there should be a committee for the purpose of directing and controlling the expenditure from the fund which will be carried into execution through local committees to be started throughout the province. With these words, I move my amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. This is indeed a very novel suggestion from the hon'ble member. He wants to transfer the responsibility of the Executive to the Legislature. The Executive is responsible to the Legislature, they should be entrusted with the duty and if they fail to discharge that duty properly, the House can always ask for an explanation or pass a vote of censure on the Ministry. Sir, the hon'ble member in the course of his speech has said that a machinery of our own for speedy action for the expenditure of the earmarked money should be set up. I am afraid instead of expediting the expenditure it will only delay the expenditure because there are occasions when money has to be spent or sent to local officers on receipt of telegraphic information. The time for calling a committee, consulting it or taking its advice is not always available. The proposal is therefore not a practicable one. We know from past experience that officers of Government take orders from superior officers by telegram and to presuppose that an expenditure should be incurred only after discussing matters with the representatives of the Legislature or with local committees is, to my mind, not businesslike. Sir, Mr. Das has said that Government officers are very slow in taking the field. From the little experience that I have had, I can assure the House that it is just the other way. Local officers are most energetic in giving relief at the time of distress. They do not lose a moment. In fact Government, at the Centre, are overwhelmed at times by their requests for money and for direction. A great amount of responsibility has to be left to the local officers themselves. The Collectors, Subdivisional Officers and such other responsible officers must act on the spur of the moment on their own initiative. To saddle them with a committee is to hamper their work and not to

help them. Suppose the committee does not meet, as we know from our own experience of the rule-making committee of this House, which, though its time was extended more than once, could not meet. So it will be a dangerous thing to wait for the advice of committees like the one proposed. Executive action must be taken by the Executive Government, and the duty of the Legislature and that of the Executive Government must not overlap in a matter like this. Here the safety and the life of people, might be at stake and ultimately the responsibility of taking prompt action for saving them must rest with the Government. The Ministry cannot come forward with a lame excuse that the advisory body that was constituted under the Act, though summoned, did not turn up in time, the quorum failed, so no action could be taken and no relief could be distributed. Will that satisfy our countrymen? Will that be appreciated by the members of the Legislature? You have given us the responsibility and we are prepared to shoulder that responsibility. Give us the opportunity to shoulder that responsibility.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, speaking on behalf of this group I must say that we are opposed to the amendment, because we do not think it to be a practical proposition at all. The proposal, as it stands, seems to me to provide for a permanent standing committee which this House cannot do. The administration of the fund, which is going to be a permanent fund, cannot be controlled by a permanent committee so far as this House is concerned because we cannot set up a permanent committee. The only question is that at the time of an emergency, the fund should be so distributed as to gain the confidence of the House. If Government thinks that at the time of a major calamity they should have the support and the confidence of the Legislature, they will naturally try to have the support or the advice of a legislative committee and they will then nominate such a committee. That being the position, we are opposed to the amendment proposed by Mr. Das regarding a central committee for the administration of the fund sought to be created under this Act.

Mr. NAZIRUDDIN AHMAD: Mr. President, Sir, I also rise to oppose the motion. The function of the proposed committee will not be an advisory one. If the motion is passed, the expenditure for relief within the scope of the Bill will have to be undertaken only and at the entire direction and control of the committee. So the Executive Government, as has been stated by the Hon'ble Minister, would be transferred from the executives to the committee. In a popular Government such a check is unnecessary. There is another difficulty. If we set up this committee at all, it will have a quorum rule. It is conceivable that in urgent cases, in case of a sudden and widespread calamity, a meeting of the Committee will have to be called, wires are to be sent

to different members living in distant parts of the province, sufficient time must be given to them to arrange their business and hasten to the Metropolis, and when they assemble, the requisite quorum may not be present and no decision will be possible. In the meantime—although the fund is ample and is lying quite handy—on account of the interposition of the committee, the people will continue to suffer. It is obvious, I submit, that instead of helping the administration in giving quick relief, it will only succeed in hampering and even frustrating the purposes of the Bill. I therefore oppose the amendment.

Mr. PRESIDENT: The question before the House is that before the proviso to clause 5 and after the words "natural calamities", the following be added, namely:—

> "and the expenditure for relief as above stated will be undertaken at the direction and control of a Committee of not exceeding twelve members, taken half by half from both the Houses, five of whom will form a quorum".

The motion was put and lost.

Mr. LALIT CHANDRA DAS: Sir, I rise to move that in the proviso to clause 5 after the words "famine or flood or", the following shall be added, namely:—

> "in supplying free of cost seeds of food grains in the distressed areas or"; and after the words "redemption charges", the following shall be added, namely:—
>
> "which were incurred upon prevention or relief of famine or distress caused by drought, flood, earthquake or other natural calamities".

Sir, if the amendment is accepted then the proviso would run as follows:—

"Provided that, if at any time, the total amount of the fund exceeds twelve lakhs of rupees, the Provincial Government may utilise such excess to meet expenditure on protective irrigation works and other works for the prevention of famine or flood or in supplying free of cost seeds of food grains in the distressed areas or to pay debt charges for which the provincial Government may from time to time be liable, including interest, sinking fund charges and redemption charges which were incurred upon prevention or relief of famine or distress caused by drought, flood, earthquake or other natural calamities".

With respect to the first amendment for putting in the words "in supplying free of cost seeds of food grains in the distressed areas", I

find that the Government has already stated how the excess expenditure is to be made and has detailed it, namely, the excess to meet the expenditure on protective irrigation works as against floods and other works for the prevention of famine or flood. Now, Sir, when a distress is declared, it may be that the poor people would be unable to purchase seeds or when the crop is threatened it is necessary that relief should go immediately for the purpose of prevention of famine and for the purpose of prevention of distress; and therefore I have put in the words to be added, namely, "in supplying free of cost seeds of food grains in the distressed areas."

The latter portion of my amendment is absolutely necessary because the wording in the Bill is very vague, and it goes to say "to pay debt charges for which the provincial Government may from time to time be liable, including interest, sinking fund charges and redemption charges". For what the debt charges are to be incurred by Government is not clear. As it is a special fund for famine, therefore, Sir, the purpose of the Act should be made clear beyond any shadow of doubt. Therefore, these words must be added, namely, "which were incurred upon prevention or relief of famine or distress caused by drought, flood, earthquake or other natural calamities". The language in the Bill is very vague, because it is merely to the effect that the Government will be entitled to spend the excess amount for the purpose of paying debt charges without mentioning what are to be made for those charges. Therefore I have by my amendment made it absolutely clear.

With these words I move my amendment.

Mr. PRESIDENT: The following amendment of Mr. Lalit Chandra Das has been moved:—

That in the proviso to clause 5 after the words "famine or flood or", the following shall be added, namely:—

"in supplying free of cost seeds of food grains in the distressed areas or"; and after the words "redemption charges", the following shall be added, namely:—

"which were incurred upon prevention or relief of famine or distress caused by drought, flood, earthquake or other natural calamities".

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, Mr. Das's amendment is divided into two parts. As regards the first portion my reply is this, that the words "upon the relief of famine and the relief of distress" are wide enough and it is not necessary to specify by saying that it should be spent also on the supply of food grains or seeds. I think seeds can be supplied if it is so considered necessary out of this

fund even if it is not mentioned. There may be occasions where for the purpose of prevention of prolongation of famine the early crop is necessary, and in those cases certainly Government will not hesitate to help agriculturists by supplying seeds free of cost. The words are comprehensive enough and wide enough. It is not necessary to specify that money should be spent on such and such specific purposes. It will be only limiting the scope and limiting the discretion of Government and I would rather leave it wide enough as it is.

Secondly, as regards the second portion of Mr. Das's amendment, the idea is this, that when the amount exceeds Rs. 12 lakhs, i.e., when there is accumulation of interest in the fund, that interest may be spent on paying the debt charges for preventive works and also for loans incurred by Government. Loans are not raised for meeting charges for famine operations. So the general revenues of Government will benefit. We have put the limit to the maximum of the Fund, i.e., Rs. 12 lakhs. So any surplus that would be available should be safely utilised in meeting the debt charges, on loans raised for preventive works or for other works. General loan that might be raised by Government—that is the implication of the clause.

With these few words I oppose the motion.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, so far as the first amendment is concerned, I think we are opposed to this because the words in the section are already wide enough to cover the emergency which my learned friend mentions and the proviso which he wants to make will be covered.

So far as the second amendment is concerned, Sir Bijoy's explanation makes us rather apprehensive, and I shall read the last three lines of the clause which read "for the prevention of famine or flood or to pay debt charges for which the Provincial Government may from time to time be liable, including interest, sinking fund charges and redemption charges". If he says that the fund can be utilised for other purpose, namely, interest charges, I think we cannot agree to this. But, Sir, if the Act is to be interpreted with reference to its purpose, in that case Government cannot spend the money for any other purpose except for the purpose for which the Act is passed, because the preamble will in that case, according to rules of interpretation, be governing, and the preamble gives the purpose for which the Act is passed and the purpose of the fund. Therefore, that being a fund any income that arises out of the fund must belong to that. Therefore, you cannot take it out of the fund and spend it for the purpose other than the purpose for which the fund is being created. If the intention of the Government is otherwise, they will have to make a change in the wording and my point is this, Sir, that it should not be used for any other purpose other than what is provided by the preamble. As the

wording stands, I think that the Government cannot spend it for any other purpose, and that being the case I oppose the amendment proposed by Mr. Das on that ground.

Mr. PRESIDENT: The question before the House is that in the proviso to clause 5 after the words "famine or flood or", the following shall be added, namely:—

"in supplying free of cost seeds of food grains in the distressed areas or"; and after the words "redemption charges", the following shall be added, namely:—

"which were incurred upon prevention or relief of famine or distress caused by drought, flood, earthquake or other natural calamities".

The motion was put and lost.

Mr. PRESIDENT: The question before the House is that clause 5 stand part of the Bill.

The motion was put and adopted.

Clause 6.

Mr. PRESIDENT: The question before the House is that clause 6 stand part of the Bill.

Mr. LALIT CHANDRA DAS: Sir, I rise to move that in clause 6 after the words "Central Government", the following shall be added, namely:—

'or in the securities of other Provincial Governments or in purchase of Port Trust or Municipal Debentures".

Now, Sir, clause 6 of the Bill as it stands, reads "The Provincial Government shall from time to time invest or reinvest in its own securities of the Central Government all sums to the credit of the Fund, which may not be immediately required for any of the purposes mentioned in section 5".

It has been stated in this section clearly in what way this fund may be utilised, namely, investing in its own securities or in the securities of the Central Government. I want to make it wider. I want to add that it may also be invested in the securities of the other Provincial Governments or in the purchase of Port Trust or Municipal Debentures.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. I think the amendment proposed by Mr. Das involves considerable risk. It is always safe for the Government to invest its money in its own securities, because certainly a Government will be aware about its own financial position and the market value or the solvency of Government. So also with regard to the Government of India, no Provincial Government is likely to have occasion for doubting the solvency of the Central Government with its vast resources. It is rather risky to invest an Insurance Fund of one provincial Government in the securities of another provincial Government. It is no longer the old provincial Government under the financial control of the Central Government. It is autonomous provincial Government and that Government may be mismanaging its finances. We do not want to risk our money by putting that in the securities of other provincial Governments.

As regards Port Trust and Municipal Debentures, these securities are certainly below the Government securities. So it is always safe and it is a very sound canon of finance that the Famine Insurance Fund should be invested only in first class securities and Government securities are the only gilt-edged securities in that sense. I oppose the amendment on this ground.

Mr. PRESIDENT: The question before the House is that in clause 6 after the words "Central Government", the following be added, namely:—

"or in the securities of other Provincial Governments or in purchase of Port Trust or Municipal Debentures."

The amendment was put and lost.

Mr. PRESIDENT: The question before the House is that clause 6 stand part of the Bill.

The motion was put and agreed to.

Clause 7.

Mr. PRESIDENT: The question before the House is that clause 7 stand part of the Bill.

Mr. HUMAYAN KABIR: Sir, I do not think I am in a position to move it but if you will allow me to move it I will do so.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, he cannot move it under the rules.

Mr. PRESIDENT: Under section 82(*1*)(*c*) of the Government of India Act, 1935 unless you secure the previous sanction of the Governor, you cannot move such an amendment.

Mr. HUMAYAN KABIR: Sir, I beg to move that in the proviso to clause 7(*2*) for the word "two" wherever it occurs the word "five" be substituted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I take the very same objection.

Mr. HUMAYUN KABIR: With regard to this clause the same objection does not stand. Now that we have fixed a limit of Rs. 12 lakhs the position is that if at any time it falls short of such amount it shall be made good from these Rs. 5 lakhs. It is only in such a case that this clause will come into operation, otherwise not. Provided it does not exceed Rs. 5 lakhs, I do not think the objection of the Hon'ble Minister will be valid.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: What is the logic behind it? We have already agreed to an initial grant of Rs. 10 lakhs and to an annual contribution of Rs. 2 lakhs. What shall we do with the balance Rs. 3 lakhs?

Mr. PRESIDENT: Mr. Kabir, I hope you will not press the amendment.

The question before the House is that in the proviso to clause 7(*2*) for the word 'two', wherever it occurs, the word 'five' be substituted.

The motion was put and lost.

Mr. PRESIDENT: The question before the House is that clause 7 stand part of the Bill.

The motion was put and adopted.

Clause 9.

Mr. PRESIDENT: The question before the House is that clause 9 stand part of the Bill.

Mr. LALIT CHANDRA DAS: I beg to move that in clause 9 after the words "the provisions of this Act", the following shall be added, namely:—

> "subject to the approval of both the Houses for which they will be laid on the table for a week before final publication in the local official Gazette".

The clause runs thus: "The Provincial Government may make rules, consistent with this Act, for the purpose of giving effect to the provisions of this Act." My amendment will add at the end of the clause—"subject to the approval of both the Houses for which they will be laid on the table for a week before final publication in the local official Gazette".

Now, Sir, the fate of my previous amendment does not encourage me to make another speech on what I think to be a very reasonable amendment, because the power of the Government is there to make rules and what rules there are, must receive the approval of both the Houses. If any member likes to know what those rules are, he can see from the final publication in the local official Gazette: if anybody takes exception to any of the rules, he can very well state his own case. In the previous amendment my hon'ble friend, the Deputy President, Mr. Hamidul Huq Chowdhury was rather apprehensive at the statement of the Hon'ble Sir Bijoy Prasad Singh Roy about the debt charges who said it need not necessarily be charges incurred for famine or other natural calamities and yet he opposed my amendment.

My amendment is very clear and reasonable. But I am not much encouraged about its fate in view of the fate of my previous amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. This is another ingenious amendment suggested by Mr. Das. Now, the rules are sometimes voluminous and I do not think the House will either have the time or patience to go through these rules. Moreover, there is always a preliminary publication and after a lapse of time the final publication of the rules. So that gives sufficient opportunity to the members of the public as well as to the members of the Legislature to put in their criticisms wherever they consider necessary; so no useful purpose would be served by placing those rules on the table of both the Houses. Moreover, if we accept this principle once, we shall have to do it in case of other legislative measures and that will entail much loss of time which again will entail much expenditure, because time of the Legislature means expenditure as you are all aware. I think the members of the Legislature have got more serious duties to perform and they should not be troubled with the details of the rules framed under the Act passed by the Legislature. Those rules must conform to the principles of the Act and

they are only for the detailed working, for directions given to officers and for other purposes. So I do not think it is a sound principle that the House should be again troubled with these detailed provisions framed under the Acts. It will mean loss of time, energy and money.

Mr. PRESIDENT: The question before the House is that in clause 9 after the words "the provisions of this Act", the following be added, named:—

> "Subject to the approval of both the Houses for which they will be laid on the table for a week before final publication in the local official gazette".

The motion was put and lost.

Mr. PRESIDENT: The question before the House is that clause 9 stand part of the Bill.

The motion was put and adopted.

Title and Preamble.

Mr. PRESIDENT: The question before the House is that the title and preamble stand part of the Bill.

Mr. HUMAYUN KABIR: I beg to move that in the title of the Bill after the word "Famine" the words "and Flood" be inserted and consequential alterations be made in the descriptive title as well as in clauses 1, 2 and 3 of the Bill.

I need only submit that this amendment is necessary in consequence of the alterations which the Hon'ble Minister himself has made in the Bill after he had introduced it in another place. There was no provision for flood in the original Bill as drafted. Consequently the original title of the Bill referred only to famine. Afterwards by the pressure of opinion in another place the words "and flood" were added in this particular clause. I would suggest that in view of the fact that in Bengal distress due to flood is at least as common and as regular as distress due to famine, these words may be included in the title.

I would like to add one word more. There may be an objection on the ground that if we make any changes in the Bill, it will have to go back to the Lower House. But as there has already been some alteration, it will go to the Lower House in any case. Since it does not in any way go against the principle of the Bill, it does not matter if we make this change and I want it to be included, as this would draw pointed attention to the fact that distress from flood is one of the most serious types of distress in Bengal. I would therefore urge the Hon'ble Minister to accept this amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I again rise to oppose this amendment. I think famine is the effect and flood, earthquake and other natural calamities are the causes. We want to give relief in case of distress caused by either flood or earthquake or any other natural calamity. The appropriate title is the Famine Insurance Fund and not the Flood Insurance Fund. If you introduce the word "flood" you will have to introduce many other things.

Mr. HUMAYUN KABIR: If it is said that relief refers only to famine, are we to understand that no relief will be given till there is actual famine?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, whenever there is distress, relief will be given.

Mr. PRESIDENT: The question before the House is that in the title of the Bill after the word "Famine" the words "and flood" be inserted and consequential alterations be made in the descriptive title as well as in clauses 1, 2 and 3 of the Bill.

The motion was put and lost.

Mr. PRESIDENT: The question before the House is that the title and preamble be added to the Bill.

The motion was put and agreed to.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the Bill as amended in Council be passed.

Mr. PRESIDENT: The question before the House is that the Bill as amended in Council be passed.

The motion was put and agreed to.

Non-official Resolution.

Mr. PRESIDENT: The House will now take up the resolutions.

Mr. RANAJIT PAL CHOUDHURY: Before the resolutions are taken up may I, Sir, make one submission. As it is we have lost practically the whole day which was meant for resolutions and we have got very little time left for the number of resolutions that are tabled, may I make an appeal to the House through you that every member should be as concise as possible so that we may go through as many resolutions as possible?

Raja BHUPENDRA NARAYAN SINHA BAHADUR, of Nashipur: Sir, I beg to move that this Council is of opinion that the Government of Bengal should appoint a Committee forthwith, consisting of a majority of non-official members, to enquire into the working of the Bengal Agricultural Debtors Act, 1935, in the areas where it has been introduced, with special reference to the working of the debt settlement boards and to the advantages derived by the debtors therefrom.

The time is very, very short and I do not propose to go into the details of this question. At the outset I may say that the working of the Debt Settlement Boards and the working of the Act require thorough examination. Though the Act has been in force for a short time there has been several criticisms of it both in the press and in public platforms especially with reference to the personnels of the boards. My object is only to recommend to Government for the constitution of a committee to enquire into the working of the boards. I do not like to go into details either on behalf of or against the boards. I leave it to the members of the committee of enquiry to go closely into the question and to submit their report thereon.

Sir, the operation of the Bengal Act has created an awful confusion in the rule of Bengal. While the Bengal Agriculture Act was passed by the old Council, we welcomed the general principle and gave it our warm support but we pointed out at the same time several glaring practical defects in it, both at the time of the Select Committee and also when the report was presented to the House. As a matter of fact when the matter was on the Legislative anvil, we tried our utmost to have these defects removed by pointedly bringing them to the notice of the legislators. But unfortunately most of the supports were actuated at the time by sentiments and hence they did not care to pay any attention to our honest efforts.

Sir, it must be admitted that it is a new Act lately introduced in Bengal and it has been in force only for a few years. But strange to say, though it has not been introduced in all the districts of Bengal and though it has worked for a short period only, there has been much criticism about its working so as to require closer attention for its rectification.

Sir, it is admitted by all that this Act cannot be a perfect one, and it requires modifications here and there in the light of practical working. The best way to do that, in my opinion, is to appoint a committee of inquiry. Government may say that they are getting reports from officials whenever any difficulty arises or is experienced in the working of the Act, but, Sir, there are only a few instances of that nature. In Bengal, people do not like to send reports to the authorities concerned when they find any difficulty, unless they have been requested to do so. If Government relied on official reports only, they would be debarred from getting the benefit of reports from non-officials, who,

too, generally, do not like to go to the authorities and report voluntarily. But if a committee of inquiry is constituted, then we can get thorough reports of inquiries as to whether the Act has worked thoroughly to the satisfaction of Government and of the people, whether the Boards have done their duty or not, and so forth. There is, again, a great difference between an inquiry by Government officials and an inquiry by a committee constituted by non-officials and officials. In the committee of enquiry members are vested with powers to scrutinize matters, to call evidence from individuals and go into details and submit their reports. It is for this reason that I humbly suggest the appointment of a committee of inquiry.

Sir, in this resolution I have deliberately put in the word "forthwith", because, if there be more delay, all chances of rectifying the defects of the Act will be gone. But I can wait for some time, that is to say, as long as Debt Settlement Boards are not formed in all the districts and no more. At present there are certain districts where such Boards have not been formed. I can wait till that time, but after the formation of Boards in all the districts I would request Government that they should forthwith appoint a committee of inquiry to go into this question thoroughly. In the Act there is a provision that if a man fails to submit any application in the course of five years, he will be debarred from doing so for ever. So, there is some time-limit and it must not be delayed any longer.

Sir, as regards the duty of the committee, I leave it to Government, but I would only suggest one or two points for their information. First of all, with regard to the personnels of the Boards, it often found that persons so appointed are not worthy of the task—I mean they are not capable of performing their duties thoroughly. In one instance I can refer to the judgment delivered by Mr. Quairishi of the Indian Civil Service, Subdivisional Officer of Netrokona, in regard to the Debt Settlement Board at Hogla. He sentenced the Chairman of that Board to rigorous imprisonment for six months and a fine of Rs. 100, and in default a further two months' rigorous imprisonment for illegal gratification. This is one instance, but there are several such instances. In passing his orders, the Magistrate observed that Chairmen of Debt Settlement Boards and Presidents of Union Boards have been vested with wide powers and that the sentence as awarded by him should be an eye-opener to them. This is a report that was published in the "Amrita Bazar Patrika," and there are surely other instances where such things do occur.

As regards the personnels of the Boards, Government should see that appointments are made carefully. Apart from the case to which I have referred, their Lordships, the Judges of the High Court, once observed: "The personnel of the ordinary Debt Settlement Board consists mostly of persons whose literary attainments do not go beyond

ability to sign their own names. Bond suits and rent suits are awaiting decisions by the aforesaid members of those Boards. In both classes of suits intricate questions of law frequently arise—questions that often tax the intelligence and baffle the judgments of experienced judges and lawyers."

This is a remark made by one of the Hon'ble Judges of the High Court in one case. Such is the opinion of the highest judicial authority in this province and not my own. Secondly, it is known to the House that in villages there are party feelings. It is found that often a member appointed from one party cannot give the other party an impartial and unprejudiced judgment. If a person comes from the other party, it is often found that the judgments of such persons are often partial and not sound. This is another point which I wish to bring to the notice of the Hon'ble Minister.

Lastly, I would submit that since the establishment of the Debt Settlement Boards the rural credit of the villagers has been destroyed altogether. It is common practice with the cultivators to borrow money for the purchase of seeds and manure at the time of cultivation, and they have been doing this from time immemorial. But where such Boards have been established, I can say from my own experience—they have not been able to borrow even a single pie this year with the result that some of the lands have been left uncultivated. It would appear that far from getting any relief from this Act, the tenants feel that they cannot get their lands cultivated and cannot get food. This is another point, Sir, which I wish to ventilate in this House so that the committee may take note of it. There are, however, several other points which should be taken into account by the committee when it inquires into the matter.

With these few remarks I move the resolution and commend it to the acceptance of the House.

Mr. PRESIDENT: Motion moved: This Council is of opinion that the Government of Bengal should appoint a Committee forthwith, consisting of a majority of non-official members, to enquire into the working of the Bengal Agricultural Debtors' Act, 1935, in the areas where it has been introduced, with special reference to the working of the debt settlement boards and to the advantages derived by the debtors therefrom.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, I rise to give my whole-hearted support to the resolution moved by the Raja Bahadur of Nashipur. The object of the Raja Bahadur is evidently to draw the attention of Government to the glaring defects of the Act which have been revealed in the course of its working during the

last few months. The Hon'ble Minister is perhaps aware that the Bengal Agricultural Debtors' Act, 1935, has been characterized by one of the distinguished Judges of the Calcutta High Court as a "bad" Act. Besides being of doubtful utility so far as the agriculturists are concerned, the Act provides ample scope for malpractices by the members of the Debt Settlement Boards. When in 1935 the agricultural Debtors' Bill was on the legislative anvil, it was clearly pointed out by the then members of the legislature that instead of bringing any benefit to the cultivating classes for whom the Bill was originally intended, it would do great harm to them and deprive the investors of their hard-earned money and would destroy rural credit altogether which is so essential for the growth and development of agriculture in this country. Sir, these difficulties could be foreseen and the pointed attention of Government was drawn to them when the Bill came up for discussion in the Legislative Council. But as it was a "vote-catching" measure and was hurried through on the eve of the general elections, the Hon'ble Member in charge of the Bill was anxious to get it passed in the teeth of strenuous opposition. Sir, I, for one, cannot induce myself to believe that the Act is doing any good to the tillers of the soil. Undoubtedly the Bill bristles with defects and its amendment seems urgently called for. I propose to mention only a few of them. The Act is calculated to encourage corruption and bribery amongst the members of the Debt Settlement Boards. The more well-to-do and unscrupulous amongst the creditors will probably lose no time to seize the opportunity of securing a favourable decision from the members of the Boards. Sir, I have shown how the interests of the agriculturists are likely to suffer and have been suffering in consequence of the operations of this Act.

I will now turn to the creditors. In the notice served upon the creditor asking him to appear before a Debt Settlement Board, no mention is made of the amount of money due by the debtor—whether it refers to any loan taken by him or to arrears of rent. Then again, Sir, sufficient time is not given to the creditor to enable him to appear before the Board. In many cases it is seen that only two or three days' time is given for the parties to appear before the Board. If a person belonging to the district of Dacca happens to own properties in the districts of Bogra, Pabna, or Rajshahi and is asked to appear before a Debt Settlement Board in any of those districts within two days of the receipt of such notice, it can easily be imagined how far it is possible for him to represent his case before the Board. The result is that his case goes by default. Instances are not also wanting in which notices have been even suppressed. Under the Act no pleaders are allowed to appear before a Board, with the result that the cases are not properly placed before the members of the Board. In several cases applications for debt settlement involve intricate questions

of law, and as the Raja Bahadur has pointed out, half-educated and illiterate members of the Boards cannot be expected properly to understand the implications of the law and come to a correct and fair decision.

There is another aspect of the question. It is well known that the average cultivator is in need of money for the purchase of seeds and for other agricultural purposes. On account of the operation of the Act, the real agriculturist has chance of being deprived of his land. Nobody is now willing to advance any loan to the agriculturists for fear of losing his good money. There have been cases in which money has not been advanced except on adequate security. For instance, a cultivator who wants a loan of Rs. 150 may be given Rs. 50 only on his furnishing a bond for Rs. 150. In some cases lands may be sold outright at a nominal price on condition that when the tenants concerned will be in a position to repay their loans, the lands will be returned to them. The condition of the agricultural classes in the villages is, therefore, not such as to enable them to repay their loans within the specified period. These among others are the many defects of the Act and the Raja Bahadur of Nashipur wants that a thorough enquiry should be made. It may be argued by the Hon'ble Minister in charge of the Department that the Act has been in operation only for a short time and as such the appointment of a Committee cannot be justified at this stage. To this my reply is that even during this short period the Act has proved to be unworkable and neither the debtor nor the creditor will benefit by it. This, Sir, is the inevitable result of all hurried legislation passed without due care and forethought. With these words, I support the resolution.

Khan Sahib ABDUL HAMID CHOWDHURY: Sir, in rising to oppose the resolution just moved by the Raja Bahadur of Nashipur and supported by Rai Keshab Chandra Banerjee Bahadur I beg to submit that the grievances which they have put forward seem to indicate that there are defects in the Act. The Raja Bahadur has quoted one or two instances of malpractice on the part of a chairman, but I submit that in all public services as well as in the case of Government officials black sheep there are and black sheep there must be and that for every single instance we are not justified to generalise anything. Now, by appointing a committee I do not think any good result will be produced specially in view of the fact that we have got notice of motions for amending the Act itself. I think this resolution is quite unnecessary. We know of instances in which even high Government officials have been convicted or removed from service for dishonesty but on that ground nobody has come forward with a proposal to abolish the whole cadre of the service to which he belongs. Now at a time when we are crying for Swaraj, we should not grudge one or two

instances of malpractice specially as the country is trying an experiment to manage its own house on a small scale. With these words, Sir, I oppose the resolution and I request the mover to withdraw it.

Mr. KAMINI KUMAR DUTTA: Sir, the resolution as framed is nothing but a very simple request to investigate into the working of an Act which must be admitted to be a very useful Act. It is an Act of rural insolvency. No doubt the Act is styled and is intended to give relief to the debtors but those who are acquainted with the state of affairs in the country will admit that it is not only intended to give relief to the debtors but to the creditors as well. Really at the time when the Act was enacted, the debtors were going to have an involuntary release of their debts without paying anything. So when the Act was enacted, if it had been operated *bona fide* and with the true spirit underlying it, it would have given relief both to the debtor and the creditor. The whole object of the Act is to effect some sort of amicable arrangement between the debtor and the creditor. I must say, however, that the working of the Act for the period during which it has been in force has revealed many defects in its practical working. Even there have been conflicting rulings in which High Court Judges have differed. So an investigation by a competent committee would help even in a future amendment of the Act itself. I may say, to speak my own mind, that my full sympathy is with the debtor. He requires relief. The agriculturist is the backbone of the country and their solvency is one of the most important factors. So in order to have a real enactment which would benefit the debtor, an enquiry by a committee is essentially necessary. I wholeheartedly support the resolution.

Mr. NAZIRUDDIN AHMAD: With regard to the resolution two things have clearly emerged out of the debate. The first two speeches struck a note that the Act itself is bad, but the two subsequent speeches try to show that the Act is not bad but that its working is bad.

A member: No one has said that the Act is bad.

Mr. NAZIRUDDIN AHMAD: In a way that has been the tone. With regard to the merits of the Act itself, we understand that a Bill has been tabled by my esteemed friend, Khan Bahadur Saiyed Muazzamuddin Hosain. An opportunity will therefore soon arise to revise the Act and to frame a better Act, if possible. But with regard to the proposal that there should be a committee, there are some practical difficulties. One is, as has already been pointed out, that the Act has not yet been in full operation. In many places Debt Settlement Boards have just been formed or are

being formed. Sufficient experience has not been gained in the practical working of the Act and I do not know what useful purpose will be served by sending out a committee to investigate into the same. One charge has been that there is bribery among the members. I submit that corruption is not a monopoly of these village institutions.

Any one who has eyes to see and the frankness to speak out, will say that almost all self-governing institutions in the province are rampant with corruption, but the mere existence of bribery in any institution is no reason why the institution itself should be condemned and abolished altogether. We find that jurors are sometimes bribed. Would that be a reason for abolishing the jury system? We know that in union boards, local boards, district boards and municipalities there is widespread bribery. Is that a reason why all these self-governing institutions should be closed down?

Mr. RANAJIT PAL CHOUDHURY: There is bribery also in Government offices.

Mr. NAZIRUDDIN AHMAD: There is bribery also in Government offices. I am thinkful to my hon'ble friend for pointing this out. But the point that I was submitting is, if that is a reason why these institutions should be abolished? The fact that there is bribery shows that these institutions have been given wide powers and that these powers are abused—that there is plenty of scope for improvement. It is rather too early at this stage to study the working of the Act because it is not yet in full operation. Another point is that about five years ago there was an Economic Enquiry Committee and it came to the finding that the entire agricultural indebtedness of Bengal stood at the staggering figure of Rs. 100 crores; and we knew that within the course of the last five years this gigantic figure has quite doubled itself. The present total agricultural indebtedness is ten times the entire assets of the agriculturists of Bengal. These colossal figures only too plainly show that the tenantry of Bengal, for reasons mostly beyond its control, is hopelessly insolvent. If big persons including even hon'ble members of this House incur debts far beyond their paying capacity and can get ready and generous protection under the Insolvency law, there is no reason why poor, ignorant agriculturists who do not incur debt for vices but for folly and helplessness should not get similar protection. The protection under the Insolvency Act is too cumbrous and too costly for them. The Bengal Agricultural Debtors' Act is designed to supply insolvency benefit to the cultivator at his door at a cheap cost and in an expeditious manner. Let us once write off their debts and bring them down to reasonable proportions and enable them to begin with a clean state and start life afresh with courage and hope and contribute

towards the economic salvation of the province. If the proposed committee has to work, it will have to take evidence and that will mean that the committee will have to travel extensively not only in the district and subdivisional towns but also in tens of thousands of villages. The task will be colossal and I do not know how many years the committee will take and what tremendous expenditure will have to be incurred to conclude its labours. And when at long last the report is ready, the Debt Settlement Boards will vastly improve and change beyond recognition and the report will then become out of date and another committee will have to work again to bring it up to date and so on. We would thus be moving in a wild goose chase and no practical good is likely to come out of it. The Act is not yet in full operation and I think it is too early to start a committee to enquire into its workings. With these words I would humbly suggest that for the time being the resolution may be withdrawn.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Mr. President, Sir, I am afraid I have to oppose the resolution but before I come to that I have every hope that after the few facts I shall be able to disclose to this House my hon'ble friend the Raja Bahadur will be good enough to withdraw the resolution for the time being. Indeed, Sir, I have every sympathy with the idea that actuated my hon'ble friend to bring forward this motion before this House. It is no doubt true that there are some defects but the special features that have been hinted at in this discussion, I submit with all respect, do not stand a moment's scrutiny. So far as my hon'ble friend the mover of the resolution is concerned, he has been good enough to mention that the personnel of the boards are defective. He has cited one particular instance which happened in a subdivision in the district of Mymensingh about a chairman being convicted by the Subdivisional Officer for illegal gratification. Then, Sir, he has also been good enough to say that the High Court in some of their recent judgments have mentioned that the members who compose these boards have not got enough literary attainments to be entrusted with this work of dealing with cases where some amount of legal training is necessary. Then, Sir, my hon'ble friend says that the rural credit of the villagers has been practically destroyed.

These are some of the main points that my hon'ble friend the mover has been good enough to mention besides one other that some of the lands have remained uncultivated this year. In supporting him my hon'ble friend Rai Keshab Chandra Banerjee Bahadur lately Chairman of the Dacca District Board, quotes with some amount of surety that the Hon'ble High Court has characterised this Act to be a bad Act. He has again mentioned about the difficulties that the creditors do suffer from, with regard to the actual working of the Act, inasmuch as the notices have not been either properly served upon them or

have been suppressed from time to time. He quotes an instance where he feels that sufficient time has not been given to them either to state their cases and again the notices that do go out, do not mention the amount involved in the particular matter. Further, Sir, he concludes by saying that the agriculturists have been suffering very much in so far as they have been deprived of the credit and in point of fact that they have been forced to sell portions of their land for obtaining money to meet their necessities.

Sir, in supporting the mover again my hon'ble friend Mr. Kamini Kumar Dutta admits with frankness that this Act is certainly fraught with very great potentialities to be of real service to the debtors and to the creditors as well, provided we work it up in its proper spirit. He says, without mentioning any of the difficulties, that he has himself witnessed, that if a committee were appointed, they would be able to go into the whole question. Now, Sir, with regard to these several points my hon'ble friends Khan Sahib Abdul Hamid Chowdhury and Mr. Naziruddin Ahmad have opposed saying that the Act has been in operation only for a very short time and that time has not yet come when it can be definitely said that the workings of the Boards should be enquired into by a committee of this type.

Sir, before I proceed to answer the various points that have been raised, I should very humbly try to recapitulate a few of the facts that were there at the time when this Act was put on the Statute Book. My hon'ble friends, the Raja Bahadur of Nashipur and Rai Keshab Chandra Banerjee Bahadur, would certainly be good enough to remember how this Act came to be introduced in the shape of a Bill, how it was sent to the Select Committee and how in the end the report of the Select Committee was placed before the House and then took the shape of the Act. Both these hon'ble friends of mine were members of the old Bengal Legislative Council and my esteemed friend Raja Bahadur of Nashipur was also a member of the Select Committee which sat and did very strenuous work on the hills of Darjeeling from day to day during October, 1935. The Bill, so far as I remember, was introduced by my esteemed colleague the Hon'ble Khwaja Sir Nazimuddin, then in charge of this portfolio, in about July, 1935. After a heated debate the Council then agreed to the Bill being sent to the Select Committee for consideration in detail. The hon'ble members who were chosen for the Select Committee did very arduous work, as I have just mentioned, and submitted a report. That report was taken into consideration by the Council when my very esteemed friend Maharaja Sir Manmatha Nath Ray Chowdhury, of Santosh was in the Chair and who has now been good enough to change his place, and under his supervision and guidance the discussion went on from day to day from November till, I believe, the end of December 1935, when it was eventually passed into law. Now it took sometime thereafter to get the assent of His Excellency the Governor and perhaps of His Excellency

the Viceroy in order that the Act that was passed by the old Bengal Legislative Council might be put on the Statute Book. It was so done; but then it took a few months more to frame rules that were to be made under section 55 of the Act. I believe it was in October 1936 that these rules were framed. A fair number of officers were appointed to go about in the countryside not only to inspect the workings of the boards but to give proper guidance to the boards that would be composed under the provisions of the Act. We all know very well what was the time that came in about October and November 1936 when we were all required to go through a general election. Even the Government officers could not find any time to do their normal duties. These officers that were appointed had to be employed for election purposes. Therefore, Sir, the position came to this, that the boards were not appointed till about February 1937, that is only about a year ago and not even in all parts of the Province. It was only in a few districts that the boards were established and I believe, Sir, before the old Government laid down their office, we had only about a thousand boards established in the Province. It was only about in April last that we started to work rather seriously and we have now about 2,600 boards although under the provisions of the Act we require about 5,000 boards to deal with this rural question of the Province. My hon'ble friend the Raja Bahadur of Nashipur knows that we have got no boards in his district even now, nor we have any in the districts of Nadia, Chittagong Hill Tracts or Darjeeling. It was only the other day that we established boards in the district of Burdwan. I submit therefore, Sir, that time has not yet come when it may be said that a committee should be appointed to examine the workings of the boards. That point, I submit, has been very ably met by my friends Mr. Naziruddin Ahmad and Khan Sahib Abdul Hamid Chowdhury.

Further, with regard to the personnel Sir, at least my friend Rai Keshab Chandra Banerjee Bahadur should have known, as Chairman of the District Board of Dacca, that the members of these boards are chosen by the local officers in consultation with the views of the local leading public. Instructions have been issued where it is distinctly said that the local officers would not send up proposals to Government unless they were satisfied, at least, that the Chairman of the District Board had agreed. Instructions have further gone out where it was also stated that if any suggestion should come from any member of the Legislature, that also has to be examined, and unless these suggestions were of a very difficult nature, it was expected that the local officers might accept those suggestions as well. It has also been said in those instructions that of the five members to compose the Boards, two would be representatives of the creditors, two representatives of the debtors and one would be an independent member. Now, Sir, we all know that human nature is human nature and it is not always perfect, and I submit after what has been said by my esteemed

friend Mr. Ahmad I should not labour that point. But I might also add that only from that point of view the working cannot be criticised and I submit, Sir, with all humility that it would not be fair to cast an aspersion upon our own countrymen on a ground of that nature, which, I submit, does not stand a reasonable scrutiny. After all we are here by their courtesy and by their selection and if we, having got into this House, cannot have their assistance from this point, I submit Sir, that will be very unfortunate.

Mr. RANAJIT PAL CHOUDHURY: Cut short.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: If my friends are anxious I might resume on any other day that the President might choose, but I submit that I must meet all the points.

With regard to the point that has been taken as a specific instance. I mean the High Court judgment, I am perfectly aware of it and I can only assure my friend Raja Bahadur of Nashipur that whenever specific cases of this nature have been brought to my notice, I will have no hesitation to take steps immediately. I can only tell my friend that I have removed some members from the Boards in the districts of Mymensingh and Khulna and in many places without any motion being tabled on that ground. I can only assure this House again that if any specific case is brought to my notice, I will certainly look into the matter and I will not hesitate to take action. I submit, Sir, therefore that it will be neither fair nor just on our part to ban our countrymen on a general remark of that nature. But, Sir, may I just put this to my hon'ble friend that whether or not we have known of many intricate cases being decided by our own village leaders who act as arbitrators through the intervention of Union Boards. Here these boards are expected to deal with monetary transactions and the only point of law that comes in, is with regard to a debt of an agriculturist. Now, the only point to be dealt with is, whether in point of fact there is still a debt due and whether the poor agriculturist has got the paying capacity and if so, to what extent. These, I submit, are very plain questions which can be dealt with by any respectable villager without having any legal training at all.

Now, Sir, with respect to the observation that my friend Rai Keshab Chandra Banerjee Bahadur makes, if the Hon'ble High Court has said anything like that, with all respect to Their Lordships I should say that they have abused their powers. They have no right to criticise the action of the Legislature in that way. If they have done so, I can only express my regret and I appeal to this House to see that the Judiciary follow up what the Legislature does and in interpreting the law they do not go beyond their limits and do not criticise the facts of this House which must be said to be the guiding

factor so far as legislation is concerned. I do not know of any expression of that type being used in any judgment but it might have been in passing that they indulged in some sort of witty remarks, but I submit that this House will certainly be very just and right in maintaining the dignified position that it has in this country.

Sir, with respect to the specific point, namely, the rural credit being shy, my answer is this. It is no doubt true that the agriculturists have not got the money that they now want, but my point is this, whether we desire that these innocent people should run themselves into debt any more. That is the main question.

I would submit to you for your consideration this little fact that in replying to some of the questions put to me not perhaps in this House but in the other House in respect to this particular subject, i.e., whether rural credit has become shy in view of the operation of this Act, I said that I was enquiring into the matter. I must be frank. I submit that we have not been able to get all the opinions of the District Officers, but the information we have received shows that no land has remained uncultivated for want of credit. It is fortunate that our agriculturists have not to run about for easy money. He must now be made to realise his own position and not run to the money-lenders for agricultural credit. With regard to the landlord and creditor, after the passing of this Act, the agriculturist can appeal to the landlord or to his creditor to be generous. If he will do so, the poor man, I think, will not have to pay his debt to the fullest extent. That being the position the cry of "rural credit has stopped" does not stand in the way. On the contrary, we are trying to find means in case of true necessity to help the agriculturists with some amount of money. There is the Agriculturists Loans Act and with the successful working of the Land Mortgage Banks, we hope to come forward with the necessary money for the purpose of helping those who are really in need. I certainly deprecate the idea which has been suggested by my esteemed friend Rai Keshab Chandra Banerji Bahadur that it is the common practice with the agriculturists to borrow money.

I submit that the time has come when we, including the agriculturists must put our house in order and cut our coat according to our cloth. We must not run after easy money.

With regard to the complaint of my friend Rai Keshab Chandra Banerjee Bahadur that notices are not served in time, they do not contain the amount of debt and the creditors do not get adequate time to put in their statements about the amount of debt, rules and instructions show the procedure that are followed by these Boards. As soon as an application is made, notice is served upon all the creditors and the creditors have to appear before the Board and put in their statements. It is then and then only that the total amount

of the debt is known. The poor man does not know the total amount of his debt unless he goes to his creditors.

The time is short but I can assure my friend that time is always given even on verbal application to enable them to submit their case. The result is that too many adjournments are granted. It is exactly what was said by my friend Mr. Mrinal Kanti Bose in one of his statements, "the time was very brief for the creditors to come and submit their statements." If that be so, we shall certainly see that the creditors do not suffer for want of time. They will be given sufficient time, and I hope that on their part they will try to give relief to the poor debtors.

These are the various points raised by the hon'ble mover and his supporters. My esteemed friend Mr. Kamini Kumar Dutt did not go to that length. He only said that the appointment of a committee of enquiry may reveal the real situation. To that, answer has been given by my friend Mr. Naziruddin Ahmad. What this committee will do? Will it go to the villages and see how these boards are working? I submit that this is not a practical proposition which I can accept at the present moment, but I may assure my friend the Raja Bahadur of Nashipur that if any specific case is brought to my notice I shall certainly be prepared to enquire into that and see that no inconvenience is caused to anybody. We will try our very best to put the Act in a proper working basis. I shall not be misunderstood that I have no sympathy with a resolution of this nature. I am really thankful to the Raja Bahadur for giving a good deal of thought to this subject and making suggestions so that the Act may be put on a sound working order. In view of my assurance, I hope he will see his way to withdraw his motion. I can assure him that in future if there is any real necessity for appointing a committee I shall not hesitate to do so. I request him to withdraw his motion; if he does not, it shall be my painful duty to oppose it.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I am much thankful to the Hon'ble Minister for the kind assurance that he has given with regard to the special cases that many be brought to his notice regarding mal-practices and so forth. He has himself cited some instances of mal-practices and corrupt practices and thus strengthened my case. The hon'ble members of this House who have opposed my motion have done so on the ground, that I have cited one instance of corrupt practice, and it is not a good case for referring to a Committee of Enquiry and said if there be more instances of mal-practices, then they would approve my motion. Now that the Hon'ble Minister himself has admitted that there had been several cases of such nature, may I hope that my colleagues will support me? I am sorry he has not said anything about the appointment of a committee of enquiry. I could understand him if

he had said that a committee would be appointed later on and not now. In the absence of an assurance of that kind, I cannot comply with his request to withdraw this motion.

I find that the Khan Bahadur and the Khan Saheb, two hon'ble members of this House, opposed my motion on the ground that it meant that the Act is a bad one. I have never said that. On the other hand, I have said that the object of the Act is to ameliorate the condition of the debtors by gradual payment which is most laudable. What I wanted was that the defects in the working of the Act should be rectified. I have quoted only one instance of corrupt practice, but the Hon'ble Minister has admitted that there have been many such instances. In my humble opinion it is the duty of Government to see that no mal-practice is carried on and for doing so the appointment of a committee of enquiry is necessary. As it is too late, I do not want to speak much.

The Hon'ble Mr. MUKUNDA BEHARI MULLICK: I am sorry there is some amount of misapprehension. With your permission, Sir, I can assure my friend the Raja Bahadur that the time has not come when we can agree to the appointment of a committee of enquiry; but when we find that there is a necessity for appointing a committee of enquiry, we will not hestitate to do so. On that assurance I request the Raja Bahadur to withdraw his resolution.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: With the leave of the House I beg to withdraw my resolution.

The resolution was then by leave of the House withdrawn.

Mr. PRESIDENT: The House stands adjourned till 3-30 p.m. on Wednesday the 26th January 1938.

Adjournment.

The Council then adjourned till 3-30 p.m. on Wednesday, the 26th January, 1938.

Members absent:

The following members were absent from the meeting held on the 25th January, 1938:—

(1) Baksh, Mr. Kader.

(2) Chowdhury, Mr. Humayun Reza.

(3) Esmail, Khwaja Mahammad.

(4) Khan, Khan Bahadur Mahammad Asaf.

(5) Mookherji, Dr. Radha Kumad.

(6) Mukherji, Rai Bahadur Satis Chandra.

(7) Ray, Mr. Nagendra Narayan, and

(8) Sen, Rai Sahib Jatindra Mohan.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 26th January, 1938, at 3-30 p.m. being the third day of the First Session, pursuant to section 62 (*2*) (*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Andaman prisoner, Babu Surendra Chandra Dam.

81. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether it is a fact that Babu Surendra Chandra Dam, an Andaman political prisoner, was repatriated to Bengal and was released from Mymensingh Jail after expiry of his term of imprisonment;

(*b*) whether it is a fact that before his release, he was served with an order of internment in the country home of his parents at Charmudhua;

(*c*) under what law and on what grounds, the civil liberty of the aforementioned Babu Surendra Chandra Dam was curtailed and taken away; and

(*d*) whether as a matter of fact internments and executive orders restricting freedom of persons are not opposed to Government's promise to give all facilities to released political prisoners to settle down in life?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) Yes.

(*b*) No. He is free to take up his abode anywhere in Bengal.

(*c*) Certain minor restrictions have been placed upon him by an order under section 2 of the Bengal Criminal Law Amendment Act, 1930, in the interests of the public safety.

(*d*) The hon'ble member is referred to the answer given in this House on the 16th August, 1937, to a question asked by Mr. B. C. Datta. The order passed is consistent with the policy there set forth.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be kind enough to state what those minor restrictions are that are referred to in answer (*c*)?

The Hon'ble Khwaja Sir NAZIMUDDIN: The minor restrictions are that he has got to give notice of his change of address when he leaves his place of residence. If it is for 48 hours, he has to give 48 hours' notice; if it is for 24 hours, he has to give 24 hours' notice; if it is over a certain number of days that he has got to be absent, he has got to give notice so many days before; but all these restrictions will very soon be removed.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be kind enough to state with reference to his reply (*d*) whether there was a Government promise to give all facilities to released political prisoners to settle down in life?

The Hon'ble Khwaja Sir NAZIMUDDIN: Quite true, Sir. That is so.

Visiting of Jails.

32. Rai MANMATHA NATH BOSE Bahadur: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether the members of the Bengal Legislative Council and of the Bengal Legislative Assembly are entitled to visit the jails; and

(*b*) if not, whether arrangement can be made for their visiting the jails?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Yes, if they have been appointed as non-official visitors to the jail under the provisions of Jail Code Rule 56.

(*b*) If they are not non-official visitors to the jail, then arrangements can be made in accordance with the provisions of Jail Code Rule 65.

A copy of the Bengal Jail Code, Volume I, is in the Library.

Khan Sahib ABDUL HAMID CHOWDHURY: Will the Hon'ble Minister be pleased to state if it is in the contemplation of Government to make necessary arrangements in accordance with the Jail Code rule 65, so that members of the Council as well as of the Assembly may be appointed non-official visitors to jails in their respective areas?

The Hon'ble Khwaja Sir NAZIMUDDIN: Jail committees are constituted by Commissioners of Divisions, and they were informed about more than four months ago that both members of the Legislative Council and of the Legislative Assembly were eligible for nomination to the jail committees, and that they come under that rule. It was as long ago as four months that the Commissioners were informed of this.

Rai MANMATHA NATH BOSE Bahadur: Will the Hon'ble Minister be pleased to state with reference to his answer (*b*) what are the implications of the words "arrangements can be made"? Is it the intention that members of the Legislature are to make an application?

The Hon'ble Khwaja Sir NAZIMUDDIN: If a member of this Legislature is not a member of a jail committee, then he can, with the written permission of the Superintendent of the Jail, or the Inspector-General of Prisons, or, in the case of the District Jails, the District Magistrate, visit the jail.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state if Government propose to introduce any measure by which members of the Legislature shall ex-officio be eligible to visit jails?

The Hon'ble Khwaja Sir NAZIMUDDIN: There is no such measure under the contemplation of Government at the present moment.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state whether he recognises that members of the Legislature have a duty in respect of jails to their constituencies as well over and above their general responsibility?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not see, Sir, how constituencies and jails come in.

Mr. HUMAYUN KABIR: Does the Hon'ble Minister want us to understand that the question of jail administration is a question in which the members of this Legislature have no legitimate interest?

The Hon'ble Khwaja Sir NAZIMUDDIN: I never suggested that members of the Legislature have not that interest, but I only said that I did not see how constituencies come in connection with this question. Government have recognised the principle and they nominated a certain number of members to the jail committee from both Houses in the past—I mean only to the Legislative Council as it was, for, then, we had only one House.

Mr. RANAJIT PAL CHOUDHURY: Do the Government think that it is not to their interest that the members of the Legislature should visit jails?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not understand how the hon'ble member has come to that conclusion.

Khan Sahib ABDUL HAMID CHOWDHURY: With reference to the Hon'ble Minister's reply to my supplementary question, will he be pleased to state if he does not think it desirable to send a reminder to the Commissioners to expedite the matter?

The Hon'ble Khwaja Sir NAZIMUDDIN: Jail committees are appointed, I believe, for two years or one year at a time, and when the time will come for the reconstitution of those committees, Commissioners have been informed that members of both Houses are eligible, and I am sure they will take into consideration Government's instructions on the matter and make their nominations accordingly.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Apart from the question of nominating members of this House to the jail committee, is there any objection for the Hon'ble Minister to issue instructions to Superintendents of Jails that when a member of this House produces his membership card, he may be allowed to visit the jail?

The Hon'ble Khwaja Sir NAZIMUDDIN: This is a question of policy, regarding which I am not prepared to express any opinion whatsoever at the present moment.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Will the Hon'ble Minister be pleased to take this matter into his consideration?

The Hon'ble Khwaja Sir NAZIMUDDIN: I need hardly say that anything that is put forward by members of this House is always carefully considered by Government.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Well, the proposition is already before Government.

(No reply.)

Khan Bahadur ATAUR RAHMAN: What is the objection when so many members are anxious to go to jail? (Loud laughter.)

The Hon'ble Khwaja Sir NAZIMUDDIN: There is no objection to sending them to jail if they want to go there! (Laughter.)

Headquarters of Noakhali District.

33. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state whether it is a fact that owing to erosion and flooding at high tide of the town of Noakhali by the river Meghna, the people of Noakhali are suffering great hardships?

(*b*) If so, for how many years is this state of things continuing?

(*c*) Did the Government finally decide in March, 1937, to shift the headquarters of the district and selected Maijdi as the site for the new headquarters?

(*d*) How many miles distant is Maijdi from the town of Noakhali?

(*e*) Whether Maijdi was pronounced safe and free from any danger of erosion by experts?

(*f*) Is it a fact that the Government resolved to open all offices at Maijdi on the re-opening of Courts after the Pujah holidays?

(*g*) In accordance with that resolution, have the offices been removed to Maijdi?

(*h*) If not, why not?

(*i*) Are the Government aware that their decision, want of decision and change of decision are causing great hardship and loss to the people and causing fluctuation of prices of lands at both Maijdi and Noakhali?

(*j*) Will the Government without further delay finally select a site for the headquarter town of the district of Noakhali?

(*k*) If so, within what period of time?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*), (*c*), (*e*) and (*f*) Yes.

(*b*) Since 1929.

(*d*) About five miles.

(*g*) No.

(*h*) Because representations were subsequently received from several sections of the local public protesting against the removal of the headquarters to Maijdi.

(*i*) Government have no information regarding any great hardship or loss, though they are aware that the decision to shift the headquarters to Maijdi increased the land value of that place. It has not in any way affected the land value at Noakhali.

(*j*) The matter is under the consideration of Government.

(*k*) A decision is likely to be reached before March, 1938.

Temporarily Settled Estates.

34. Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Will the Hon'ble Minister in charge of the Revenue Department be pleased to lay on the table a statement showing separately against each of the temporarily settled estates the following particulars:—

(*a*) the names of the temporarily settled estates in the year 1886 in the district of Murshidabad;

(*b*) their respective revenues in 1886 and in 1935;

(*c*) the amount of increase and decrease in the revenue;

(*d*) the reason for such increment or decline in the revenue; and

(*e*) the price of paddy in 1886 and that in 1935?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) to (*d*) A statement is laid on the Library table.

(*e*) No statistics are available about price of paddy, but it appears that common rice was sold at 20 seers per rupee in 1886 and at 12 seers per rupee in 1935 in the district.

Revenue Department's Circular No. 16602 L. R.

35. Rai MANMATHA NATH BOSE Bahadur (on behalf of Rai Satis Chandra Mukherji Bahadur): Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

(*a*) whether the Government took legal advice when they issued the Circular No. 16602 L. R. to the Secretary to the Board of Revenue;

(*b*) whether it is a fact that the statements contained in that circular of declaring null and void all enhancement of rent under section 105 of the Bengal Tenancy Act, and at the same time allowing their officers to proceed with the trial of such cases are consistent on the part of the Government;

(*c*) whether the Government realise that without the permission of the Settlement Officer parties cannot have their case postponed *sine die;*

(*d*) whether Government contemplate to issue instructions to the Settlement Officer to postpone section 105 cases indefinitely; and

(*e*) whether the Government are also contemplating to withdraw the circular?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) Government always take legal advice when legal difficulties arise. But they consider it inadvisable, as a general rule, to state whether they have taken legal advice on any particular occasion.

(*b*) The circular did not declare all enhancements null and void.

(*c*) Yes.

(*d*) and (*e*) No.

Islamia College.

36. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) whether the attention of the Government has been drawn to the news that the Education Minister, supported by the Ministry of the North-Western Frontier Province, stopped the grant to the Islamia College as such a college cannot produce good citizens;

(*b*) whether the Government intend to change the name of the Calcutta Islamia College as tending to communalism and make it indicative of no particular sect or creed;

(*c*) whether the Government abolished the religious nomenclature of the Rajshahi Government Student Hostels;

(*d*) if so, what was the idea behind it;

(*e*) if the answer to (*b*) be in the negative, whether the Government propose to stop the grant to it;

(*f*) whether Government intend to change all names of Government institutions which may smack of communalism; and

(*g*) if not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Education Department): (*a*), (*b*) and (*c*) No.

(*c*) and (*d*) The hostels previously known as new Hindu Hostel and new Muslim Hostel have been renamed as Rajshahi College Hostels—Blocks A to F, so that no community may entertain the idea that it has any exclusive right to the occupation of any one building.

(*f*) There is no such proposal at present before Government. But if the various communities for whom denominational institutions are maintained, will come forward with a proposal to change the nomenclature of such institutions, Government will be prepared to consider it favourably.

(*g*) Does not arise.

Mr. LALIT CHANDRA DAS: With reference to (*c*), (*d*) and (*f*), was there any representation before the nomenclature of the Rajshahi Government Students Hostel was changed into Blocks A to F.

The Hon'ble Khwaja Sir NAZIMUDDIN: The hon'ble member is well aware of the controversy on this question some time ago.

Mr. LALIT CHANDRA DAS: My question was whether there was any representation received by Government before the change was made in the nomenclature of the Rajshahi College Hostel.

The Hon'ble Khwaja Sir NAZIMUDDIN: I have already answered the question.

Mr. LALIT CHANDRA DAS: May I ask the Hon'ble Minister to state the reasons which induced the Government to change the nomenclature of the Rajshahi College Hostel into Blocks A to F, and whether those reasons will induce the Government before any further representation is received from the public to change the denomination of the institutions and re-name them in a way so that all may consider that the institutions belong to all.

The Hon'ble Khwaja Sir NAZIMUDDIN: I refer the hon'ble member to the answer given in (*f*).

Mr. LALIT CHANDRA DAS: The answer that is given to (*f*) is to the effect that representations are to be received before any such question can be considered—my question is whether the reasons that induced the Government to change the nomenclature of the Rajshahi College Hostel will induce them to change the names of other institutions so that it may be understood that no institution is communal.

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not think that the two things can be compared with one another.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister consider the question when a situation like that at Rajshahi arises again?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is a hypothetical question.

Extra copyists in the Registration Office.

37. Mr. LATAFAT HOSSAIN (on behalf of Mr. Krishna Chandra Roy Chowdhury): Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) whether he is aware that the extra copyists under the Registrar of Assurances of Calcutta who have been serving for a period of 15 to 20 years as temporary hands have not yet been made permanent;

(*b*) whether it is a fact that outsiders have been selected in the meantime as permanent copyists instead of those who have been working as temporary copyists for 15 to 20 years continuously;

(*c*) if so, whether the Hon'ble Minister will kindly explain the reasons thereof;

(*d*) the number of copyists and clerks that have been appointed from amongst outsiders, their names, the dates of their appointments and their qualifications, year by year, from 1925 to 1936;

(*e*) the number of the extra copyists with their names, the dates of their appointments and qualifications and of those that have been made permanent, year by year, from 1925 to 1936;

(*f*) the policy involved in giving such permanent appointments to the extra copyists; and

(*g*) the reasons as to why the extra copyists had been taken in the permanent staff after neglecting the claims of those possessing necessary qualifications?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in Charge of the Education Department): (*a*) Yes. The extra copyists who are not educationally qualified have not been given permanent appointments.

(*b*) One outsider has been recruited for a permanent post.

(*c*) The Registrar of Assurances examined the extra copyists and found that with one exception who was given a permanent appointment, none of them was fit for a permanent appointment. He, therefore, recruited a graduate from outside.

(*d*) Babu Durgadas Banerjee, B.A., an outsider, was appointed as a permanent copyist on the 13th October, 1936.

(*e*) A statement furnishing the particulars is laid on the Library table.

(*f*) Appointments are ordinarily made by selection from among deserving and qualified extra copyists.

(*g*) The Registrar of Assurances examined the extra copyists and found that, with one exception who was given a permanent appointment, none of them was fit for a permanent appointment. He, therefore, recruited a graduate from outside.

Managing Committee, Edward Coronation Institution.

38. Rai SURENDRA NARAYAN SINHA Bahadur: Will the Hon'ble Minister in charge of the Education Department be pleased to state the reasons in favour of appointing a gentleman in the Managing Committee of the Edward Coronation Institution, Jiaganj, district Murshidabad, to represent the interests of the guardians of the pupils of the school after disapproving the election made by them without any reason, though the people were quite willing to have such a representative by another election?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in Charge of the Education Department): The Subdivisional Officer, Lalbagh, who is the President of the Managing Committee of the school, and the District Magistrate, Murshidabad, apprehended that a fresh election would be a long and difficult affair and would result in delay which would be injurious to the interests of the school.

Outdoor Patients to Hospitals.

39. Khan Bahadur ATAUR RAHAMAN: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state—

(*a*) what is the total number of outdoor patients attending Government hospitals in the province except those in the metropolis;

(*b*) what is the number attending such hospitals in the city of Calcutta;

(*c*) what is the total expenditure for supply of medicines to these hospitals in the *mufassil* and in Calcutta respectively; and

(*d*) what is the average cost of medicine per head of the patient and how such cost of the *mufassil* hospitals compares with the cost in the capital city?

MINISTER in charge of the PUBLIC HEALTH and LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Syed Nausher Ali): (*a*) 177,201 in 1936.

(*b*) 264,871 (outdoor patients) in 1936.

(*c*) Accounts for expenditure on medicine for outdoor patients are not kept separately. The total expenditure for supply of medicines in State hospitals in 1936 was as follows:—

In *mufassil*—Rs. 19,570.

In Calcutta—Rs. 1,79,341.

(*d*) Approximate cost of medicine per capita of patients both indoor and outdoor in 1936—

For *mufassil*—1 anna 9 pies.

For Calcutta—9 annas.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister be pleased to state what is the reason as regards such disproportion in the figures for the province as a whole on the one hand and for the city of Calcutta on the other regarding outdoor patients? Is it the reason that there are no hospitals in the *mufassil* or is it the reason that there are no patients there as compared with the town of Calcutta?

The Hon'ble Mr. SYED NAUSHER ALI: The average cost per capita given here is perhaps a little bit misleading and requires a little explanation.

Mr. HAMIDUL HUQ CHOWDHURY: The point that I was trying to make out, is this. The figure for the province is 1,77,201 and the figure for Calcutta is 2,64,871. What is the reason that in the case of the province as a whole it is so small and in the case of the city it is so large? Is it because there is a lesser number of patients in the *mufassil*, or is it because the facilities that are now available there are much less than those in Calcutta?

The Hon'ble Mr. SYED NAUSHER ALI: The reason is clear that there are very few State-managed hospitals in the *mufassil* and practically all the State-managed hospitals are in the town of Calcutta. There are a few so-called hospitals in the *mufassil* but the responsibility for their maintenance as well as for medical relief in rural areas is on the local bodies.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister kindly state whether the amount of 1a. 9 pies for a patient is not ridiculously low and whether he will take steps to see that sufficient money is spent for *mufassil* patients?

The Hon'ble Mr. SYED NAUSHER ALI: As I have been stating just now, the figure is somewhat misleading and it requires a little explanation. What happens generally is this. In the *mufassil* patients come generally once and they seldom come for the whole period necessary for their treatment but in towns like Calcutta on the other hand, patients attend till they are cured so that the same patient continues his attendance from day to day, for a longer period than in the *mufassil* That is one reason. The second reason is, as already stated in the answer, that this figure gives the cost for in-patients as well as out-patients. So the discrepancy in the figures are not so great as it appears to be. In the case of in-patients, the patient remains in the hospital perhaps for a pretty long time. It is only complicated and difficult cases that are admitted into a hospital. Thirdly, and that is a very important reason, the hospitals in Calcutta are the training centres for students of medical schools and colleges in Calcutta; the treatment that is given in Calcutta is all up-to-date and the cost consequently is greater than that in the *mufassil.*

Mr. HAMIDUL HUQ CHOWDHURY: Is it one of the reasons why the cost for *mufassil* patients is so low that patients who come to a hospital once never returns?

Mr. PRESIDENT: In putting supplementary questions no argument should be used. You can only ask for information.

Mr. HAMIDUL HUQ CHOWDHURY: The Hon'ble Minister has said that in the *mufassil* a patient comes generally once and never returns—is it because he is cured by one dose of medicine or is it because he is fed up with the potency of the medicine and never returns?

The Hon'ble Mr. SYED NAUSHER ALI: We all know the habit of the people in the *mufassil.*

Khan Bahadur SAIYED MUAZZAMUDDIN NOSAIN: Sir, my question about the provision of more money for *mufassil* patients has not yet been answered.

The Hon'ble Mr. SYED NAUSHER ALI: I am sorry I cannot hazard an opinion, but I promise to look into the matter.

Officers in Municipalities.

40. Mr. NUR AHAMED: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state—

(*a*) what is the total number of officers employed by the 118 municipalities of Bengal;

(*b*) what is the total amount which these officers draw now;

(*c*) out of these officers, how many are Moslems and how many are non-Moslems;

(*d*) what is the total amount which these Moslem officers draw as their salaries out of the total amount of salaries; and

(*e*) out of the total number of chairmen of the 118 municipalities of Bengal, how many are Moslems and how many are non-Moslems?

The Hon'ble Mr. SYED NAUSHER ALI: The information required is not available in the Secretariat and references have accordingly been made to the various districts. The replies have not yet been received from many districts. The information will be supplied as soon as the materials are available.

Bengal Vaccination Act.

41. Rai SURENDRA NARAYAN SINHA Bahadur: (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state what steps have been taken in conformity to section 13A of the Bengal Vaccination Act and also section 33C of the same Act by different local bodies in Bengal?

(*b*) In view of the obligatory nature of section 13A, does the Hon'ble Minister consider the appointment of a female vaccinator necessary for inspection in accordance with the provisions of the said sections?

(*c*) If the answer to (*b*) be in the affirmative, will the Hon'ble Minister be pleased to state what steps have been taken by the Public Health Department to enforce the provisions of the said sections?

The Hon'ble Mr. SYED NAUSHER ALI: (*a*) The provisions of section 13A of the Bengal Vaccination Act are restricted in their operation to the town, port and suburbs of Calcutta, and the town of Howrah. The Calcutta Corporation and the Garden Reach Municipality employ eight and one permanent female vaccinators respectively; in times of

epidemic the number is increased by the employment of temporary hands. Howrah has no female vaccinator but seven trained midwives are employed to assist in carrying out the provisions of section 13A. The Tollygunge Municipality has recently appointed a female vaccinator under instructions from Government.

The South Suburban Municipality employs a midwife who does vaccination work.

Government have framed rules under clause (*c*) of section 33 of the Bengal Vaccination Act which, it is understood, are substantially complied with wherever practicable.

(*b*) and (*c*) In view of the reply to (*a*) the questions do not arise.

Rai SURENDRA NARAYAN SINHA Bahadur: Does the Hon'ble Minister consider the desirability of inviting opinion from local bodies for appointing lady vaccinators in their respective areas?

The Hon'ble Mr. SYED NAUSHER ALI: That is the duty of the local bodies and I hope the hon'ble member who is a Chairman of a district board can very well do it himself if he so desires and other chairmen of district boards are also expected to comply with the provisions of the law. I do not see any reason for calling for opinion on a matter of law to be carried out by local bodies.

Preventible diseases in Bengal.

42. Mr. KAMINI KUMAR DUTTA: (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state whether the Government are aware that heavy tolls are being taken annually and incessantly by preventible diseases in the province?

(*b*) If the answer to (*a*) be in the affirmative, will the Hon'ble Minister be pleased to state what steps the Government have so far taken and what steps the Government intend to take to prevent the preventible diseases of Bengal?

The Hon'ble Mr. SYED NAUSHER ALI: (*a*) Yes.

(*b*) The preventive measures adopted by the Government of Bengal are as follows:—

(*i*) maintenance of a rural health organisation throughout the province;

(*ii*) anti-malaria work through the local bodies;

(*iii*) anti-kala-azar work through the local authorities;

(*iv*) maternity and child-welfare work;

(*v*) grant towards free vaccination and maintenance of vaccination inspecting staff as well as free supply of vaccine lymph;

(*vi*) free supply of anti-cholera vaccine;

(*vii*) provision for emergency epidemic work in the rural areas;

(*viii*) grants for water-supply;

(*ix*) anti-tuberculosis work through the Tuberculosis Association, Bengal;

(*x*) anti-leprosy work through the British Empire Leprosy Relief Association; and

(*xi*) publicity and propaganda.

The whole question of controlling preventible diseases in the province on comprehensive lines is engaging serious attention of Government.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state what is a rural health organisation referred to in sub-clause (*i*) to clause (*b*)?

The Hon'ble Mr. SYED NAUSHER ALI: Sir, it requires practically giving the substance of a scheme that has been in operation in Bengal for about fifteen years. Almost in every district throughout the province there is a staff which is known as health staff. This staff is now placed under the administrative control of the district boards. The organisation is paid for wholly by the Government of Bengal. The whole district is divided into a number of health units and the maximum cost that Government has agreed to pay is Rs. 2,000 per unit. There is one health unit in every thana, roughly speaking. This unit consists of a Sanitary Inspector, a Health Assistant and a carrier. They look after the health condition of the area under their charge, perform cholera inoculations and do other preventive works when epidemic breaks out. This, in a nut-shell, is the health organisation, and I understand the cost last year was over 12 lakhs.

Mr. KAMINI KUMAR DUTTA: Does it follow from the statement of the Hon'ble Minister that the whole machinery which is styled a rural health organisation consists of a Sanitary Inspector for a thana and his Assistants?

The Hon'ble Mr. SYED NAUSHER ALI: That is practically so at present.

Mr. KAMINI KUMAR DUTTA: Does the Hon'ble Minister think that the service of a Sanitary Inspector is quite adequate really for the purpose?

The Hon'ble Mr. SYED NAUSHER ALI: That is a question of opinion.

Khan Bahadur ATAUR RAHMAN: Has the Government considered or thought of what are the root causes of these diseases? Have they thought of remedying root causes instead of giving these eleven items in this question?

The Hon'ble Mr. SYED NAUSHER ALI: The idea no doubt is that Government should take steps to see that the preventible diseases are prevented; but I do not think Government alone by even spending the entire revenues of the province can root out the diseases unless the people come forward with full co-operation and try to defend themselves against the attack of these maladies.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state what is the maternity work referred to in sub-clause (*iv*)?

The Hon'ble Mr. SYED NAUSHER ALI: I am really sorry these answers require a good deal of details which it is very difficult to give on the floor of the House. If the hon'ble member is much interested in this, he may see me any time according to his convenience and I will explain to him what these are.

Maghotsob.

43. Khan Bahadur MOHAMMAD IBRAHIM: (*a*) Is the Hon'ble Minister in charge of the Finance Department aware that there is a great festival of the Brahmos named "Maghotsob" on the 11th *Magh* of every year and that if the offices are not closed on this date, the Brahmo officers are put to great difficulties?

(*b*) If so, is the Hon'ble Minister considering the desirability of closing all offices on the 11th *Magh* to remove the difficulties and making adjustment, if necessary, by deducting from the Pooja holidays?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Finance Department): (*a*) Brahmo officials are allowed a sectional holiday on the 11th day of *Magh* each year.

(*b*) No.

Road Board Projects.

44. Rai SURENDRA NARAYAN SINHA Bahadur: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state—

(*i*) whether the special officer has completed the scheme for the Road Board projects for the whole province of Bengal; and

(*ii*) whether the scheme has been considered by the Road Board?

(*b*) If the answer to (*a*) be in the affirmative, will the Hon'ble Minister be pleased to state which of the roads in the district of Murshidabad will be taken up into the project?

(*c*) Will the Hon'ble Minister be pleased to state which of the roads will get first preference?

(*d*) If the answer to (*a*) be in the negative, will the Hon'ble Minister be pleased to state when it will be ready and considered by the Board?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Kasimbazar): (*a*) No.

(*b*) and (*c*) Do not arise.

(*d*) The report is expected to be ready very shortly. It will be considered by the Provincial Board of Communications as soon as possible after it is received.

Rai SURENDRA NARAYAN SINHA Bahadur: Will the Hon'ble Minister be pleased to state whether before the consideration of the report any piecemeal work will be taken up?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar: I do not think so, except in special cases.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister be pleased to consider the question of placing the report, when he receives the report of the Special Officer, before this House for its consideration and for criticising it, if necessary, and also the decision taken by the Road Board before their recommendations are put into effect?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar: I do not think that is a practical proposition.

Mr. HAMIDUL HUQ CHOWDHURY: May I know what is there to prevent it from being placed before this House?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar: So far the practice which is being followed is that road schemes are placed before the Board of Communications for its consideration and according to the decision arrived at, projects are undertaken with the sanction of the Government of India. I am afraid it will only complicate matters if the whole thing has to come before the Legislature.

Mr. HAMIDUL HUQ CHOWDHURY: The question is not of sanction but of an opportunity of criticising it. Is the Hon'ble Minister not aware that the Boards are nominated bodies and represent not the whole province but a part of it?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar: That is so, but all interests are represented there.

Debt Settlement Boards.

45. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state—

(*a*) how many Debt Settlement Boards have been working for the last six months or more;

(*b*) how many applications for debt settlement have been received by such Boards;

(*c*) how many of such applications were completely disposed of—

(*i*) by amicable settlement,

(*ii*) otherwise than by amicable settlement, and

(*iii*) by being struck off;

(*d*) total amount of debts of cases amicably settled by such Boards; and

(*e*) total cost incurred by Government over such Boards?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) 1,325.

(*b*) to (*d*) These Boards had received 81,167 applications up to June, 1937. The collection of up-to-date figures for these three items entails so much labour and such expenditure that, Government regret, they cannot undertake to do this.

(*e*) During the six months April to September, 1937, actual expenditure upon the working and administration of Debt Settlement Boards amounted to Rs. 3,26,892.

Mr. LALIT CHANDRA DAS: With reference to answer to questions (*b*) and (*d*), will the Hon'ble Minister be pleased to say whether out of this 81,167 applications which have been received up to June 1937 any of them has been disposed of?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Many of them have certainly been disposed of, but I am afraid, Sir, I cannot give the number off-hand.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if majority of them have been disposed of?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: It is very difficult for me to say.

Mr. LALIT CHANDRA DAS: As a matter of fact, have Government received any information as to whether only the minority of the cases have been disposed of?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I am sorry I have not got the details here; but I have got information that many cases have been disposed of.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state if we are to understand that no returns are being taken from these boards; otherwise if returns were taken, figures would have been forthcoming?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Returns do come but the difficulty has been with reference to the question itself. My hon'ble friend wants an answer with respect to the last six months. But for the information of this House I might say that we have received a question, I believe from my friend Mr. Lalit Chandra Das, and upon that we have issued a questionnaire to all our officers and perhaps all these will be given with reference to all the boards.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Are the returns taken separately from every board?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: They come through the Directors and with reference to particular districts.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Only compiling returns of separate boards will give the figures. I have given more than three months' notice. Could it not be done within these three months?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: The number of Boards so far has been 1,325. The total number of Boards that we have up to now is 2,600.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether it has been made a business by the Debt Settlement Boards to hold up cases in civil courts and also to stop execution proceedings and even to prevent institution of rent suits by the landlords?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: My answer would be in the negative. So far as the first part of the question is concerned, there is no business made out of this, but I think the result of an application before a Board is to stay the proceedings for a period during the pendency of the application.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state if he will kindly issue orders for introduction of returns in such forms that information may be available regarding these matters from time to time, so that we may know exactly where we stand. We are spending lakhs and we ought to be able to know how matters stand.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: All that I can say is that I will look into it. But for the information of my friend I may tell him that he will certainly get all the details when I put forward my demand at the time of the budget.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Is it not a fact that universal satisfaction has been expressed by small debtors at the functioning of the Boards?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: That is the information we have received from most of the Collectors.

SHORT-NOTICE QUESTION.

Mr. PRESIDENT: I have received notice of a short-notice question from Mr. Kamini Kumar Dutta regarding hunger-strike in the Dacca Central Jail. It reads as follows:—

(*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if it is a fact that some political prisoners in Dacca Central Jail are on hunger-strike?

(*b*) If the answer to (*a*) be in the affirmative, will the Hon'ble Minister be pleased to state their names and the period for which they are on hunger-strike?

(*c*) Did they give any previous notice before resorting to hunger-strike?

(*d*) Did they state their grievances and what relief, if any, did they ask for?

(*e*) What steps do the Government intend to take to allay the situation?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Nine Division II convicts and one Division III convict have refused their diet. The Division II convicts were convicted of terrorist offences. The Division III convict had no connection with terrorism.

(*b*) A statement is laid on the table.

(*c*) No.

(*d*) Since refusing their diet they have stated their grievances in the form of demands which vary in individual cases but include:—

(1) The release of all terrorist convicts and the release of detenus.

(2) The repeal of the special laws and enactments which control terrorism and rebellion.

(3) The repatriation of all convicts from the Andamans.

(4) The revision of the Jail Code Rules in their interest to provide for:—

(*a*) the creation of a special class of prisoner to be called "political prisoners" with special treatment and the inclusion of all persons convicted of terrorist offences within that class.

(*b*) Some claim the privileges of Division I and some of Division II.

(*c*) Exemption from hard labour.

(*d*) Concentration in a single Jail with provision for playing games.

(*e*) Improved medical facilities.

(*e*) Before the hunger-strike commenced, orders had been passed which resulted in the classification of the terrorist prisoners in Division II and the repatriation of all Bengal terrorist convicts from the Andamans. The convicts are aware of these facts. The rules for the treatment of convicts in Division II will be found in chapter XXXV of the Bengal Jail Code Rules, 7th Edition, a copy of which is in the Library of the House. These rules make every reasonable provision for the proper treatment of prisoners so classified. The prisoners have been warned that they render themselves liable to prosecution for refusing their diet and the necessary steps are being taken by the medical authorities to preserve their lives. Government are not prepared to treat persons convicted of offences such as murder, dacoity, and illicit possession or traffic in arms or of conspiracy to commit such

offences as distinct from other offenders. Government trust that all reasonable persons will refrain from encouraging, in any manner, the persistence of these convicts in a course which may be as disastrous as it is unjustifiable. I am happy to inform the House that already two prisoners who were on hunger-strike have abandoned it.

Statement referred to in the answer to the Short-notice Question showing the list of prisoners on hunger-strike in the Dacca Central Jail in January 1938.

	Name.	Date of hunger-strike.	Number of days on hunger-strike.
1.	No. 5563A—Prafulla Kumar Sen	11-1-38	15 days.
2.	No. 3325A—Bhupesh Chandra Lahiri	17-1-38	9 ,,
3.	No. 3326A—Ratneswar Sil	17-1-38	9 ,,
4.	No. 2693A—Ashutosh Baradhaz	17-1-38	9 ,,
5.	No. 6337A—Bhupal Chandra Bose	18-1-38	8 ,,
6.	No. 3858A—Chondsa Shekar Pathak	19-1-38	7 ,,
7.	No. 3860A—Hari Pada Sikdar	19-1-38	7 ,,
8.	No. 1409A—Bhut Nath Manna	21-1-38	5 ,,
9.	No. 5564A—Dhirendra Mukharji	21-1-38	5 ,,
10.	No. 5566A—Harendra Nath Munshi	21-1-38	5 ,,

Mr. LALIT CHANDRA DAS: Is prisoner No. 6337A, Dr. Bhupal Chandra Bose, one of the two who have given-up hunger-strike?

The Hon'ble Khwaja Sir NAZIMUDDIN: No, Sir.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if Dr. Bhupal Chandra Bose is suffering from tuberculosis?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if there are any facilities for treatment of tuberculosis at Dacca?

The Hon'ble Khwaja Sir NAZIMUDDIN: The Dacca Central Jail is in charge of an I.M.S. officer.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if there are special facilities for treatment of tuberculosis at Dacca?

The Hon'ble Khwaja Sir NAZIMUDDIN: Dr. Bhupal Chandra Bose was transferred from Calcutta to Dacca at his own request; but

the orders of his re-transfer from Dacca to Calcutta were passed before he went on hunger-strike.

Mr. LALIT CHANDRA DAS: My question is whether there are special facilities for treatment of tuberculosis from which Dr. Bhupal Chandra Bose is suffering.

The Hon'ble Khwaja Sir NAZIMUDDIN: As far as I know, there are proper facilities.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state if the Government are considering any of the grievances of the prisoners set forth in clause (*d*) of the answer?

The Hon'ble Khwaja Sir NAZIMUDDIN: I would refer the hon'ble member to my answer in (*c*) from which it will appear that at least two of them are already removed.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to make his statement more explicit than what is contained in answer (*e*)?

The Hon'ble Khwaja Sir NAZIMUDDIN: I will draw the attention of the hon'ble member to the fact that all Andaman prisoners have been repatriated and all terrorist prisoners have been put in division II.

Mr. HUMAYAN KABIR: Will the Hon'ble Minister be pleased to state whether the division III convicts were convicted of non-terroristic political crime?

The Hon'ble Khwaja Sir NAZIMUDDIN: Government do not recognise any such thing as political crime. They were not convicted of any terrorist crime.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if it is not a fact that Dr. Bhupal Chandra Bose is suffering from tuberculosis and his temperature is varying from 100° to 101°?

The Hon'ble Khwaja Sir NAZIMUDDIN: As far as the present condition of Bhupal Bose is concerned, the report says that he is very weak but otherwise good. I have not got any information about his temperature.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if it is not a Government rule that when a prisoner suffers from a serious disease, he can be let off?

The Hon'ble Khwaja Sir NAZIMUDDIN: The rule is otherwise. When a man suffers from an infectious disease like T. B. he should not be let off.

Mr. HUMAYAN KABIR: Are we to understand from the answer of the Hon'ble Minister that non-terroristic political activities do not constitute a crime?

The Hon'ble Khwaja Sir NAZIMUDDIN: I leave the hon'ble member to understand what he thinks best.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if Dr. Bhupal Chandra Bose will be brought from Dacca to Calcutta for better treatment?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have already stated that orders have been issued for his transfer from Dacca to Calcutta.

Mr. KAMINI KUMAR DUTTA: With reference to (*e*), will the Hon'ble Minister be pleased to state whether Government are prepared to consider the case of those prisoners convicted of serious offences committed for a particular ideology, differently from those who have committed unlawful acts?

The Hon'ble Khwaja Sir NAZIMUDDIN: There are certain other questions pending, which will come before the Legislature and will show what Government intend to do with regard to those prisoners. I would ask the hon'ble member to wait.

Relative Precedence of Bills.

Mr. HAMIDUL HUQ CHOWDHURY: Before you take up the non-official business may I move with your permission that items Nos. 40 to 50—the formal business—may be taken up first. I mean the introduction business.

Mr. PRESIDENT: The Chair has got no objection but the difficulty is with regard to section 19 of our Rules and Standing Orders. Our present rule—section 19 (*3*) of the Rules and Standing Orders—contemplates that "each of the above classes shall be arranged so as to give priority to those which are most advanced". Unless the House agrees, the Chair will not alter the arrangement of the business. Of course if that be the desire of the House, I shall have no objection.

Mr. LALIT CHANDRA DAS: For myself I object.

Mr. HAMIDUL HUQ CHOWDHURY: I move formally that leave be granted.

The Hon'ble Khwaja Sir NAZIMUDDIN: I submit for the information of the House that these rules are framed in a special manner and if any rule has got to be amended or suspended, subject to the provision where discretion has been given to the President, it should be amended or suspended in the manner in which it has been made: otherwise these rules will cease to be of any avail. After a rule is framed in a particular manner, it should be amended in a particular manner.

Mr. PRESIDENT: If there is a consensus of opinion, the Chair will have no objection; but I understand that there are objections: therefore I shall not allow it.

Mr. HAMIDUL HUQ CHOWDHURY: I submit that it has been the usual practice everywhere and in the Central Legislature also. There is some rule everywhere but permission is often given to take the more formal introduction first which is never opposed in any House in any part of the world. That being so, I submit that my leave question be put before the House and decided.

Mr. LALIT CHANDRA DAS: The Chair has already given a ruling——

The Hon'ble Khwaja Sir NAZIMUDDIN: I was only just going to repeat what Mr. Das has said. You have given a ruling and no member ought to question it.

Observance of Independence Day.

Mr. NARESH NATH MOOKERJEE: Before we proceed to the business of to-day, may I appeal to you to adjourn the business of the House in view of the fact that to-day is the "Independence Day" and in order to enable some of us to partake in its celebration in the city. "Independence Day" is the greatest day for all Indians in India. I may also tell you that in other provinces the Legislatures have suspended their proceedings in view of this "Independence Day". We realise that we are not in the majority in this House. But I also appeal to each and every member of this House through you to consider our feelings in this matter. I would like to point out that it will not be regular to move a motion of this kind, but I hope that some consideration will be shown by our colleagues who are brother Indians and also share the sentiment that we cherish in this connection.

Mr. PRESIDENT: The Chair did not receive notice of any such motion; so I cannot accept it as a motion. If it is the general desire of the House, I am prepared to adjourn the House. If the House is unanimous on this point, I have no objection.

Mr. NAZIRUDDIN AHMAD: I understand there is opposition to this proposal from this side of the House. We have already spent too much time over other matters. We have come from the *mufassil* at great personal sacrifice and inconvenience and want to get through the business of the House as much as possible.

Mr. PRESIDENT: Mr. Naziruddin Ahmad, do you speak for yourself or on behalf of your side of the House?

Some members: We object.

Mr. MESBAHUDDIN AHMED: Sir, the question may be decided after the adjournment for prayer.

Mr. PRESIDENT: The House is adjourned for prayer till 4-50 p.m.

Adjournment for prayer.

The House then adjourned for prayer.

(*After adjournment.*)

Mr. PRESIDENT: I shall now take up non-official Bills. The Hon'ble Khwaja Sir Nazimuddin.

Mr. NARESH NATH MOOKERJEE: Sir, I am still waiting for a ruling from the Chair on my motion.

Mr. PRESIDENT: I have given my decision. I have explained that as there was opposition, I could not allow the motion.

Will the Hon'ble Khwaja Sir Nazimuddin now move his motion?

NON-OFFICIAL BILLS.

The Bengal Cruelty to Animals (Amendment) Bill, 1938.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I beg to present the report of the Select Committee on the Bengal Cruelty to Animals (Amendment) Bill, 1937.

Mr. LALIT CHANDRA DAS: Sir, I beg to move that the Bill as reported on by the Select Committee, be taken into consideration.

Sir, the operation known as *phuka* perpetrated on milch cows, which are held in great reverence by the Hindus, and other milk-yielding animals is so cruel and horrible, the use of the milk of such animals is so harmful to the health of human beings, and the crime is so prevalent, that to put an effective check on it, amendments to the provisions of the Bengal Cruelty to Animals Act (Act I of 1920) have become very imperative. The public has been insistently demanding an amendment of the Act. Hitherto, Sir, the law was a fine up to Rs. 200 or imprisonment up to six months. It was not even a cognizable offence. The Bill by its amendment has made provision, firstly, that it should be a cognizable offence; secondly, that the fine could be raised up to Rs. 1,000; thirdly, that the imprisonment can extend to two years, and in case of a second offence, the imprisonment has been made compulsory. And what is more important is that the cow upon which the offence of *phuka* will be committed, will be forfeited to Government. Then, Sir, there has been another provision made in this Bill, and it is to the effect that the informant may also be rewarded if his information leads to the detection of such a crime. Another provision has also been made in the Bill to the effect that municipalities, including the Calcutta Corporation, will have the power to refuse to grant licences to the owners of cattle-sheds if they are not kept sufficiently open for the people to be able to detect if the crime of *phuka* is being committed therein or not. These, in brief, are the provisions made in this Bill.

Sir, I now move that the Bill be taken into consideration.

Mr. PRESIDENT: Order, order. Motion moved; That the Bengal Cruelty to Animals (Amendment) Bill, 1937, as reported on by the Select Committee be taken into consideration.

The motion was put and agreed to.

Clause 1.

Mr. PRESIDENT: The question is that clause 1 stand part of the Bill.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I beg to move that in clause 1 for the figure "1937" the figure "1938" be substituted.

Mr. LALIT CHANDRA DAS: Sir, I accept the amendment.

Mr. PRESIDENT: The question before the House is that in clause 1 for the figure "1937" the figure "1938" be substituted.

The motion was then put and agreed to.

Mr. PRESIDENT: The question before the House is that clause 1, as amended, stand part of the Bill.

The motion was put and agreed to.

Clause 2.

Mr. PRESIDENT: The question before the House is that clause 2 stand part of the Bill.

The motion was put and agreed to.

Clause 3.

Mr. PRESIDENT: The question is that clause 3 stand part of the Bill.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I beg to move:—

'That in section 6 of Ben. Act I of 1920, after the word "he" the words "shall be deemed to have committeed a cognizable offence and" shall be inserted and in place of the word "two" the word "five" shall be substituted and in place of the word "or" after word "Rupees" the word "and" shall be substituted and after the word "with" and before the word "imprisonment", the word "rigorous" shall be inserted and in place of the words "six months," the words "one year" shall be substituted and the words "or with both" shall be omitted.'

I would just explain, Sir, why this amendment is being moved. What the Select Committee recommended was that both the person and the cattle-shed itself should be penalized, but afterwards looking at the matter it appeared that it would be very unfair to penalize a person who has purchased or come into occupation of a particular cattle-shed where *phuka* had been performed previously and where the owner was punished. It may happen that this cattle-shed changed hands afterwards and came into the possession of a second party. Let me explain the matter in this way. 'A' was the owner of a cattle-shed and he performed *phuka* there. He was punished, and afterwards he sold the shed to 'B'. After some time 'B' sells it to 'C'. Now. 'C' was not in a position to know that the owner of that particular cattle-shed is a person who was at one time fined for having performed *phuka* there. Now, this "C" also performs *phuka* and he is caught and brought up before a Magistrate. Now in a case like this he is liable to both fine and imprisonment. The Bill's provision was that a person who was convicted once, if he repeated the offence, he should be punished both with fine and imprisonment, and not the person whose first offence it was and who had no knowledge of, or was not implicated in any way in any previous offence. Therefore, it will not be right to leave the word "cattle-shed" there. The

amendment which I have drafted fulfils the object which I have in view, viz., that if a man commits an offence a second time or repeats the offence, he should be liable to punishment both with fine and imprisonment. I hope, therefore, that the hon'ble member in charge of the Bill will accept my amendment.'

Mr. PRESIDENT: Amendment moved:

'That in section 6 of Ben. Act I of 1920, after the word "he" the words "shall be deemed to have committed a cognizable offence and" shall be inserted and in place of the word "two" the word "five" shall be substituted and in place of the word "or" after word "Rupees" the word "and" shall be substituted and after the word "with" and before the word "imprisonment", the word "rigorous" shall be inserted and in place fo the words "six months", the words "one year" shall be substituted and the words "or with both" shall be omitted.'

The amendment was put and agreed to.

Mr. PRESIDENT: The question before the House is that clause 3, as amended, stand part of the Bill.

The motion was put and agreed to.

Clause 4.

Mr. PRESIDENT: The question before the House is that clause 4 stand part of the Bill.

The motion was put and agreed to.

Title and Preamble.

Mr. PRESIDENT: The question before the House is that the Title and Preamble be added to the Bill.

The motion was put and agreed to.

Mr. LALIT CHANDRA DAS: I beg to move that the Bengal Cruelty to Animals (Amendment) Bill, 1938, as settled in Council be passed.

Mr. PRESIDENT: The question before the House is that the Bengal Cruelty to Animals (Amendment) Bill, 1938, as settled in the Council be passed.

The motion was put and agreed to.

The Bengal Patni Taluks Regulation (Amendment) Bill, 1937.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I beg to move that the Bill be referred to a Select Committee consisting of—

(1) the Hon'ble Sir Bijoy Prasad Singh Roy, Minister in charge of the Revenue Department,

(2) Maharaja Sir Manmatha Nath Ray Chowdhury, of Santosh,

(3) Rai Manmatha Nath Bose Bahadur,

(4) Khan Bahadur M. Abdul Karim,

(5) Maulana Muhammad Akram Khan,

(6) Mr. Humayun Kabir,

(7) Khan Bahadur Saiyed Muazzamuddin Hosain,

(8) Khan Bahadur Ataur Rahman,

(9) Begum Hamida Momin,

(10) Rai Keshab Chandra Banerjee Bahadur,

(11) Mr. Shrish Chandra Chakraverti,

(12) Mr. E. C. Ormond,

(13) Mr. Bankim Chandra Datta,

(14) Mr. Krishna Chandra Roy Chowdhury, and

(15) the mover,

with the request to submit its report by the 28th February, 1938, and that the number of members whose presence shall be necessary to constitute a quorum, shall be four.

At the outset I must inform the House that this Bill has nothing to do with the tenants having tenancy or occupancy right. The Bill would not affect them in any way directly or indirectly. If there be any apprehension on this point on the part of any of the hon'ble members, I may say that he will be mistaken. This Bill deals with landlords only, between zemindars and patnidars. In Bengal there are very few zemindars who do not pay Government revenue and also do not hold patnis paying rent to other zemindars. Even the tenure-holders will not be affected by this Bill. The main object for introducing this Bill is to safeguard the interests of the patnidar and auction-purchaser in patni sales. Owing to ambiguity in the law

sometimes auction-purchasers have been harassed one way or another. In the Bill I have touched only section 14 of the Patni Taluks Regulation of 1819. It runs thus:—

"It shall however be competent to any party, desirous of contesting the right of the zemindar, to make the sale, whether on the ground of there having been no balance due, or on any other ground, to sue the zemindar, for the reversal of the same, and upon establishing a sufficient plea, to obtain a decree with full costs and damages."

The only change that I have made is the omission of the words "on any other ground." The object is that it is much too wide and vague: and sometimes people taking advantage of this vagueness, harass the purchaser unnecessarily. As a matter of fact, from my personal experience, I can inform the House that there are cases in which the outgoing patnidar had brought a suit to set aside a sale held under the Patni Regulation and put the purchaser and the zemindar to trouble and unnecessary expense. There the zemindar and the purchaser agreed to set aside the sale on the condition that the outgoing patnidar would pay the balance due for which the sale took place. Even then, there was no agreement and then litigation continued with the sole object that money could be extracted from the purchaser. There were two or three cases in which I happened to be the zemindar and there were other men who were purchasers. In these cases we agreed to have the matter compromised as desired by the outgoing patnidar but the patnidar did not agree. The purchasers in order to avoid harassment and litigation, agreed to pay lump sums to him and he was satisfied. This was due to the ambiguity in the law. From these cases one comes to the conclusion that owing to this vagueness of the term, continued and protracted litigations are being carried on with the sole intention of extracting money from the purchasers. Generally, outgoing patnidars file these suits on no substantial ground but only to harass. My intention is to omit these words and in their place to put the words which appear in the Bengal Tenancy Act. These words are "or on the ground of a material irregularity or fraud in publishing and conducting the sale." These words I have adopted from the Bengal Tenancy Act to make it more explicit and clear.

There is another factor to be considered along with this. But for the conduct of the outgoing patnidars, they do not get the proper and adequate price. It is natural for the purchaser to evade paying a fair price but pay a low price because he finds that there is a risk behind it. The outgoing patnidar may bring a frivolous suit and may harass him. He always purchases at a low price. So, if these words are deleted, the patnidar would get a fair and reasonable price in return also.

Another change that I have made is that I have added a proviso. This also has been taken from the Bengal Tenancy Act, namely:—

(*a*) no sale shall be set aside on any such ground unless the court is satisfied that the plaintiff has sustained substantial injury by reason of such irregularity or fraud, and

(*b*) no plaint filed by the party desirous of contesting the sale shall be admitted unless the plaintiff either deposits the amount of the claim of the zemindar for which the sale in question was held or satisfies the court, for reasons to be recorded by it in writing, that no such deposit is necessary."

I have taken these words verbatim from the Bengal Tenancy Act. The only alteration that I have made is the word "admitted" in place of the word "allowed." The reason is that there has been some doubt as to the true interpretation of the word "allowed." Recently in the High Court case Mofizuddin vs. Mofizuddin (I.L.R., 61, Calcutta 388), Mr. Justice Lort-Williams remarked as follows: "It does not and cannot mean that the Court would entertain the application for setting aside the sale unless the deposit is made and at any rate thinks that the Court would not grant the relief asked for in the application." So the Court decided that a deposit is not to be made. Later on the Acting Chief Justice, Sir Manmatha Nath Mookerji and Mr. Justice Ghosh remarked that the interpretation put on the case was not correct. They said, we are very doubtful if it was not the intention of the legislature that the word "allowed" in the clause should be read in the sense of entertaining." They, therefore, suggested that the word should be "admitted." Later on in the High Court case Bidhubala Dasi vs. Rai Sahib Kumud Nath Das in the Court of Mr. Justice Costello, it was decided that the deposit of the amount decreed contemplated by section 174, clause 5 of the Bengal Tenancy Act must be made before the appeal can be entertained at all. The Court has no power to allow an appellant to deposit such sum after the appeal is admitted.

So the principle has been adopted by the highest tribunal in the country several times in several cases. Not only in the Bengal Tenancy Act but also in the Transfer of Property Act the same principle has been applied. In the Court of Small Causes they also held the same principle. So the principle that I am enunciating is not a new one but has been accepted not only in the Bengal Tenancy Act but also by the High Court and all other Courts. The law should be such that no opportunity should be given to one party to harass another and it is for this reason that I am putting in this new clause. If my suggestion is accepted, there will be less litigation and if the party deposits the sum before filing the suit, I think 99 cases out of 100 will be compromised. The purchaser will give up his claim for

the land and the patnidar will get it. The practice is that after a sale takes place, the purchaser has to deposit the sale money and the zemindar withdraws his dues and the balance due remains there. If the outgoing patnidar deposits the money, his arrear of rents, for which sale takes place—his legal dues—will prove no difficulty for the purchaser to get back the money for which he has purchased the tenure. The zemindar will have no objection and the purchaser also can have no objection to the setting aside the sale. If my suggestion is accepted, all parties will be satisfied. With these words I commend my motion to the acceptance of the House.

Mr. PRESIDENT: The motion moved: The Bill be referred to a Select Committee consisting of—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister-in-charge of the Revenue Department,
(2) Maharaja Sir Manmatha Nath Roy Chowdhury, of Santosh,
(3) Rai Manmatha Nath Bose Bahadur,
(4) Khan Bahadur M. Abdul Karim,
(5) Maulana Muhammad Akram Khan,
(6) Mr. Humayun Kabir,
(7) Khan Bahadur Saiyed Muazzamuddin Hosain,
(8) Khan Bahadur Ataur Rahman,
(9) Begum Hamida Momin,
(10) Rai Keshab Chandra Banerjee Bahadur,
(11) Mr. Shrish Chandra Chakravarti,
(12) Mr. E. C. Ormond,
(13) Mr. Bankim Chandra Datta,
(14) Mr. Krishna Chandra Roy Chowdhury, and
(15) the mover,

with the request to submit its report by the 28th February, 1938, and that the number of members whose presence shall be necessary to constitute a quorum, shall be four."

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st March, 1938.

Sir, in moving it I should say a few words for the information of this House that if this Bill is taken into consideration without eliciting public opinion, we shall be doing some harm to a large section of land-owning class which includes also some ladies. The

mover has said, it will reduce litigation, but at the same time it will cause hardship to patnidars because the object of the Bill is to restrict the setting aside of the sale on two grounds only, i.e., irregularity and fraud, and the mover has also cited some rulings of the High Court which relate to rent suits. But the case of Patnis is quite different, because zemindars sell patnis at the *astam* sale and the patnidars do not get any opportunity of filing objections. In rent suits the sale passes through several stages through courts and objections are heard and decided; but under the Patni Regulation that is not the case. Besides, there are instances when the patnis are settled with Dar-patnidars who are also entrusted to deposit with the superior landlord the rent for the patni taluk, and it may be, Sir, that when a patni is sold in *astam* sale, a lady having small profit comes forward on some reasonable grounds for setting aside the sale and if the superior landlord demands the money as deposit before filing the case, there will certainly be hardship on her. So I think, Sir, that it will be better if public opinion is invited and then the Bill be considered either by the Select Committee or by the House.

With these words, Sir, I move my amendment.

Mr. PRESIDENT: Amendment moved: 'the Bill be circulated for the purpose of eliciting opinion thereon by the 31st March, 1938.' Both the substantive motion and the amendment are now before the House.

Mr. KAMINI KUMAR DUTTA: Sir, I rise in support of the motion that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st March, 1938.

Now, Sir, the modern tendency and the present spirit of all law is to take away the summary procedure for the realisation of any dues, and indeed there is already an outcry that even the provisions of the Public Demands Recovery Act by which certificates are issued for realisation of rent, should not be in the Statute Book, and I must say there are very valid grounds for that grievance. Now as a lawyer of some experience, I may say the Patni law is more drastic than even the Public Demands Recovery Act. In the Public Demands Recovery Act the processes for realisation of dues pass through a public officer who is a responsible officer and the sale is held and the notices are published under the supervision and control of the public officer. I may mention here what is the provision of the patni law. There neither a decree nor an order of the court is required. The zemindar does not go to the court; he simply goes to the Collector and the duty of serving the notices and the duty of fulfilling the requirements of this Regulation are all placed upon the zemindar. In a court

sale under the Bengal Tenancy Act, it is the court which passes the decree, it is the court which issues the proclamation and the notices. Even in the case of certificate sale it is the Certificate Officer who passes the order, who issues the notices and the sale proclamation; but in the case of a patni sale it is the zemindar who is to realise his dues. He is entrusted with the duties of having the notices served. Nothing can be more drastic than this, and it is for these reasons that in almost all rulings the unanimous opinion has been expressed that in case of a sale under the order, supervision and control of a court, there is a presumption that things have been regularly done. But that presumption would not arise in the case of a patni sale, because here no court intervenes and there is no intervention of a public officer and it is really a private individual—a zemindar—who causes the processes to be served. Furthermore, in the case of a certificate or of a decree, even after the decree or the certificate is issued, the debtor gets an opportunity to pay his dues. But here the sale is at once put into execution. There is no decree but the execution with the claim is put in. So I think that already the law is sufficiently drastic and the analogy of the Bengal Tenancy Act cannot at all be applied in case of a sale under the patni law, and therefore public opinion ought to be invited before any such drastic provision finds its place in the Statute Book. If I may be excused, I can say it is a retrograde law altogether: it is the law against modern spirit of time and public opinion ought to be taken in this matter.

Khan Bahadur M. ABDUL KARIM: Mr. President, Sir, while expressing my gratefulness to the Hon'ble mover of this Bill for doing me some honour by way of nominating my name on the Select Committee, I have the misfortune to have to oppose his Bill for the reasons—I do not like to cover the same ground over again—as stated by my hon'ble friend Mr. Kamini Kumar Dutta. I will simply supplement his observation by one fact that it appears to be a very essential matter for consideration by any Select Committee that might be thought of in this connection. Whatever might be said about his first point, in my humble judgment and in the opinion of my party it seems that the main sting lies in the second proposition where the whole question would turn upon the fact whether no claim shall be "allowed" or no claim shall be "admitted." So far as this matter is concerned, it seems to me that the effect of any such legislation would be to shut out the poor patnidars from going to the court at all for the purpose of obtaining redress by way of having that sale set aside; and in this particular matter it is only right and proper that public opinion, and especially the large body of patnidars in this province, should be consulted before we or any Select Committee might consider it proper or safe to act upon. In that view of the case, I oppose the

Bill and I join hands with Rai Surendra Narayan Sinha Bahadur in saying that the Bill should go for circulation for public opinion.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Mr. President, Sir, I am sorry my friend Mr. Kamini Kumar Dutta has misunderstood me. I did not propose that the deposit should be made before the Collector where sale takes place on summary procedure, but before the Civil Court when a regular suit has to be instituted after a year from the date of the sale. To make my point clear, I lay before the House the following facts:—

Before 1933, when the amendment of the Patni Regulation was made by Bengal Act of 1933—a patnidar could not set aside the sale by depositing the money. The only remedy available for him was to go to the Civil Court and to institute a regular suit. In the 1933 Act, thirty days' grace was allowed by introducing section 14A of the Act. This section has been taken verbatim from section 174(*1*) (*a*) (*b*) and (*2*) of the Bengal Tenancy Act. As in the case with other tenure-holders, the position of the patnidar has been made similar to theirs with regard to the advantage for setting aside the sale. After the amendment of the Patni Regulation, thirty days' time has been allowed by way of grace, i.e., if a Patnidar deposits money after thirty days from the date of the sale before the Collector—the sale is automatically set aside. There is no need for an application to be made for filing any suit before the Collector. So the patnidar gets all the advantages as laid down in the Bengal Tenancy Act at present. Besides this, the patnidar has an additional advantage, i.e., he can apply to set aside the sale within one year, whereas under the Bengal Tenancy Act, it is a few months only and in both cases regular suits have to be filed in the Civil Court. It is at this stage that I propose that the deposit should be made before the Civil Court as is to be done in the case of other tenure-holders under the Bengal Tenancy Act. I have never said that the deposit should be made before the Collector, and that is not my contention. The outgoing patnidar had the opportunity of depositing the same before the Collector. If he fails to take this advantage as applied under the Bengal Tenancy Act, he will have another opportunity to go to the Civil Court. Not to speak of curtailing the rights of the outgoing patnidar as enjoyed by other tenure-holders with regard to the sale of the tenure, he will only have an additional advantage to go to the civil court after a year.

My friend Khan Bahadur Abdul Karim has also made the same mistake. I have never said that this provision should apply in the case of a sale when it is held by the Collector under the Patni Regulation. My contention is, and I would request my friends to clearly understand the position, that after the sale has taken place, if a patnidar does pay the money within thirty days and goes to the civil court for redress, he should deposit the money—his legal dues to the civil court

as contemplated in the Bengal Tenancy Act and the Transfer of Property Act. I would again request my friends not to misunderstand the position, there is no question at all with regard to the deposit before the Collector. This is a case when an application as made by the outgoing patnidar in the civil court. As the first portion of section 174 of the Bengal Tenancy Act has been embodied in the Patni Amendment Act, my suggestion is to embody the remaining portion of that section in the Patni Act and nothing more, so that the patnidars will derive all the advantages enjoyed by tenure-holders and other occupancy holders.

My friend Rai Surendra Narayan Sinha Bahadur moved for the circulation of the Bill. Unfortunately, I have not the power to understand the reason set forth by him nor have I the capacity to follow him when he uses the words "old lady" which he repeats several times in course of his speech. Am I to understand that he means patnidars as old ladies? Has he placed them under the category of old ladies? However, it is beyond my power to follow him, for which I am sorry.

Sir, generally the motion for circulation is moved when the underlying principle is a new one. But here this is not the case. Here the principle that I have suggested is an old one and has been accepted by Government and by the highest tribunal of the country and has been laid down in several Acts that are prevalent in Bengal. I cannot understand how the motion can be moved reasonably when the principle is an old accepted one. Moreover, this Bill has been introduced about ten months ago and this is enough time to criticize a Bill which has embodied well-established principles. Apart from this, in the last Council in 1936, I introduced the Bill and it had been published in the "Calcutta Gazette" at that time also. So practically this Bill is before the public for about two years which is enough time to seek public opinion. My friend suggests to give two months' time for circulation. But I have given two years already. Under the circumstances, there is no case for the circulation. If my friend wants to defer the matter, that is another thing. But not in this way. With these words, I oppose the motion for circulation.

Mr. HAMIDUL HUQ CHOWDHURY: I am opposed to the Bill in principle. The first amendment proposes to take away the right of the court to enquire into the claims of the contesting tenants challenging the legality of the sale generally. The Raja Bahadur's amendment seeks to limit the thing only to three matters, namely, non-payment, irregularity or illegality in conducting the sale itself. There may be hundreds of other illegalities committed by the landlord in ultimately bringing the property to sale under the regulation. The effect of adopting the Raja Bahadur's amendment would be to curtail the scope of enquiry of the court. As regards clause 2(*1*), he wants to introduce the provisions of the Civil Procedure Code. Order 21, Rule 90

of the Civil Procedure Code provides that no sale shall be set aside unless the tenant has been able to prove that there has been irregularity or illegality in public to conduct the sale and that there has been a substantial injury caused by such illegality. This provision may be justified in the Civil Procedure Code, because before the decree is obtained under that Code, the party will have ample opportunity to go into the respective right and defence and upon that the court would adjudicate and pass a decree: therefore *prima facie* the decree-holder has got to establish that he is entitled to get the money. The only thing that remains thereafter is selling the property, in case of a sale, in execution of the decree. Therefore naturally the enquiry of the court will be limited to the irregularity or illegality in the sale itself and the Civil Procedure Code is perfectly justified in providing that no sale is to be set aside unless there is illegality or irregularity and consequent loss. But the regulation has got no provision for enquiry by a court as to the respective rights of the parties before the property is ultimately brought to sale. Therefore the scope of enquiry is limited as proposed by the amendment. As regards the last clause, namely, that the tenant shall be bound to put in the money due to the landlord before filing the suit to set aside the sale, is also unjustifiable. A similar provision has been made in the Bengal Tenancy Act and there are good reasons for doing so. Under the Bengal Tenancy Act before the claim is established and ripens for satisfaction by way of sale, the court adjudicates the respective rights of the parties and if rent is due to the landlord from the tenant, there being such an adjudication, it is natural for the Act to say that the tenant is justified in doing so for meeting his liabilities to the landlord according to the decree. Such a provision cannot be made in the regulation, because here there has been no enquiry into the respective rights and claims of the parties, may be there was no dues to the landlord and may be for other reasons the landlord is not entitled to get rent. Therefore the provision of the Civil Procedure Code should be followed that the court has not provided for any deposit to be made by a person seeking to have the sale set aside on the ground of fraud. As soon as a fraud is established, the court is bound to have the sale set aside. Therefore I oppose the Bill of the Raja Bahadur as a whole; but since our Leader has already said that we are in favour of having the Bill circulated I support the amendment for circulation.

Mr. NAZIRUDDIN AHMAD: I rise to support the Bill for circulation. My grounds are two. The first is supplied by the hon'ble the mover of the motion—the Raja Bahadur of Nashipur himself. One of his grievances is that the real purpose of the Bill has been misunderstood in the House. One of the hon'ble members who are supposed to have misunderstood the Bill is a distinguished lawyer adorning the

Congress benches and another is an equally distinguished lawyer who is a leader of this side of the House. I submit that when there is room for so much misunderstanding in such eminent quarters regarding the purpose of a Bill it is better that it should be sent out for eliciting public opinion. It is not necessary for me to discuss the merits of the Bill at this stage. My second ground is that the Bill attempts to create some further difficulty in the way of setting aside a sale. In short it affects vested interests. It is therefore only reasonable and fair that we should know what those vested interests have got to say in the matter. That is the other reason why it should be circulated. I therefore support the motion for circulation of the Bill.

Mr. PRESIDENT: The question before the House is that the Bengal Patni Taluks Regulation (Amendment) Bill, 1937 be circulated for the purpose of eliciting opinion thereon by the 31st March, 1938.

The motion was put and agreed to.

Mr. PRESIDENT: The House stands adjourned for prayer and will meet again at 6 o'clock.

Adjournment for prayer.

The Council then adjourned for prayer at 5-40 p.m.

After adjournment.

The State Provision for Clinical and Bacteriological Examination Bill, 1937.

Mr. RANAJIT PAL CHOUDHURY: I beg formally to move that the State Provision for Clinical and Bacteriological Examination Bill, 1937, be referred to a Select Committee consisting of—

(1) the Hon'ble Mr. Syed Nausher Ali, Minister in charge of the Public Health and Local Self-Government Department,

(2) Maharaja Sir Manmatha Nath Ray Chowdhury, of Santosh,

(3) Khan Bahadur M. Abdul Karim,

(4) Mr. Kamini Kumar Dutta,

(5) Mr. Khorshed Alam Chowdhury,

(6) Khan Bahadur Ataur Rahman,

(7) Mr. W. B. G. Laidlaw,

(8) Rai Surendra Narayan Sinha Bahadur,

(9) Mr. Naziruddin Ahmad,

(10) Rai Manmatha Nath Bose Bahadur, and

(11) the mover,

with the request to submit its report by the 28th February, 1938, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

Sir, in moving this motion, and if I am fortunate enough to obtain the sanction of His Excellency the Governor, it will be in order so far as its introduction is concerned. I can fervently hope that the Governor in his discretion will accord his sanction to my Bill as it affects the life and well-being of a vast majority of people inhabiting this province. As my Bill is not discriminatory in any way—affecting neither a majority nor a minority, but all and sundry, irrespective of caste and creed—I see no reason why both the Government and this House will not accept this beneficent measure. If it is the contention of the Hon'ble Minister that no Bill involving any sort of expenditure should be introduced by a private member in this House, it is tantamount to saying that private members should remain satisfied with moving only pious resolutions of an innocuous nature. Sir, we look up to you to uphold the dignity of this House in this respect.

The Government of India Act, 1935, does not anywhere lay down that private members cannot bring in Bills involving expenditure from public revenues and I take my stand on section 73 of the Act. No doubt, a Financial Bill involving a question of taxation or affecting taxation is within the strict right of the Government and of the other House. So I hope that this motion of mine referring this Bill to a Select Committee will be accepted by this House.

Mr. PRESIDENT. Motion moved: 'The State Provision for Clinical and Bacteriological Examination Bill, 1937, be referred to a Select Committee consisting of—

(1) the Hon'ble Mr. Syed Nausher Ali, Minister in charge of the Public Health and Local Self-Government Department,

(2) Maharaja Sir Manmatha Nath Ray Chowdhury, of Santosh,

(3) Khan Bahadur M. Abdul Karim,

(4) Mr. Kamini Kumar Dutta,

(5) Mr. Khorshed Alam Chowdhury,

(6) Khan Bahadur Ataur Rahman,

(7) Mr. W. B. G. Laidlaw,

(8) Rai Surendra Narayan Sinha Bahadur,

(9) Mr. Naziruddin Ahmad,

(10) Rai Manmatha Nath Bose Bahadur, and

(11) the mover,

with the request to submit its report by the 28th February, 1938, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.'

The Hon'ble Mr. SYED NAUSHER ALI: Sir, I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st May, 1938.

In doing so, Sir, I should like to make the position of Government quite clear. The hon'ble member in charge of the Bill has stated that there is no bar to the introduction of any Bill by a private member involving financial responsibility. I do not for a moment contend that there is any such bar. The question is whether or not a Bill offending against the provisions of section 82 (*1*) (*b*) of the Government of India Act, 1935, can be introduced in this Council. So far as that point is concerned, I do not want to say anything here to-day. The Bill has already been introduced, and I am therefore not taking my stand on that, for if I had done so, I should not have tabled this motion for circulation. But I will stand on the merits of the case and I will make my submission to the House on the merits.

I may say at once that Government do not deny that the establishment of Clinical and Bacteriological Laboratories at headquarters of districts where they do not exist, will serve a useful purpose. I may go a step further and add that Government would be prepared to examine the question very carefully with a view to removing the want of such Laboratories where they are really keenly felt, by a combined effort of Government and the local bodies concerned. But that is one thing and accepting statutory liability for the establishment and maintenance of Clinical and Bacteriological laboratories is quite a different thing. The Bill proposes to impose a statutory obligation on the Government as well as on the local bodies to establish and maintain Clinical and Bacteriological laboratories at the headquarters of each district. It raises, in my opinion, a very important question of principle which I venture to submit for the serious consideration of the House. The establishment of laboratories is one of a very large number of beneficial measures and crying needs of the country and it is not very easy to fix the priority of claims as between these different demands. The establishment of laboratories is only a means towards rendering medical relief to the people, and as such an administrative detail, and I doubt very much if it can ever form a legitimate subject for legislation. It may be considered whether the object of the Bill could not have been better achieved by an expression of opinion of this

House in the form of a Resolution. But, be that as it may, Government are definitely of opinion that they will not be justified in accepting statutory responsibility for the establishment of laboratories as proposed in this Bill. It will be, in their opinion, inconsistent with sound financial policy, and still more inconsistent with the demands of other crying needs of the country. I feel it my duty to inform the House at this stage that if ever the Bill comes up before them for consideration in any form which involves any financial obligation on the provincial revenues, the necessary recommendation of the Governor under section 82 (*3*) will not be available; otherwise Government might be subsequently blamed for wasting the valuable time of the House.

This at once leads us to the real ground for the motion for circulation. If Government cannot accept statutory responsibility on this subject, can the local bodies do so? On principle I should like to say at once "No". The obligations of the local bodies are created by Statutes, and one of such obligations is medical relief, and I am quite sure, they are doing their very best with the limited resources at their disposal to discharge their obligation in this direction. Can they consistently with their statutory duties and responsibilities allow themselves to be fettered by another statute in the exercise of their discretion in apportioning the very small expenditure for the purpose of medical relief? I am sure it will neither be in the interest of efficiency of administration nor of the medical relief of the country as a whole to try to fetter their discretion in the way proposed. On the other hand, I am definitely of opinion that such a course is bound to create great administrative difficulties, and is sure to evoke a storm of legitimate resentment from all local bodies in the province. Limited and inelastic as the resources of local bodies are, it is only fair that they should be given a free hand in the matter of medical relief and other affairs within their own sphere of activity. I am almost sure that if the matter be referred to the local bodies, they will consider the claims of the proposal along with those of other crying needs of the people entrusted to their care such as, water supply and medical relief in the *mufassil*. I don't think I need enter into any further details, and anticipate the opinion of the local bodies but I feel that before this House proposes to impose a statutory obligation on the local bodies, it will like to consult the opinion of the public in general and of the local bodies in particular, and that no action will be justifiable without obtaining such opinion.

Before I resume my seat I should like just to give an idea of the real state of things now prevailing in the country on this question of laboratories and also the financial implication of the proposals embodied in this Bill. There are at present Clinical and Bacteriological laboratories of the nature contemplated in the Bill at the headquarters of seven districts, and there are also Clinical Laboratories in seventeen

other district-headquarters where the ordinary examination of blood, sputum, etc., can be done. The establishment of Bacteriological Laboratories at the remaining twenty district-headquarters equipped with up-to-date appliances and instruments for conducting all examinations on up-to-date methods, will involve an expenditure of Rs. 1,42,560 recurring, and Rs. 2,03,020 non-recurring.

This estimate, of course, does not take into consideration the recurring expenditure for repairs to the buildings and depreciation. Under these circumstances, I hope that my motion for circulation will be accepted by the House.

Mr. PRESIDENT: Motion moved:

That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st May, 1938.

Mr. RANAJIT PAL CHOUDHURY: Sir, I shall have no objection to this motion of circulation of the Bill for public opinion, but may I request the Hon'ble Minister to be good enough to reduce the time, say, by a couple of months. If he does that, I shall have no objection to accept the motion.

The Hon'ble Mr. SYED NAUSHER ALI: So far as I can see, Sir, it would not help matters much. To-day is the 26th of January, and if we are to reduce the period within which opinions should be received by a couple of months, then the date would be 31st March. I do not know, Sir, how these things are done, but if your Department, Mr. President, can have the opinions by the 31st of March, then perhaps there need not be any objection.

Mr. PRESIDENT: But the House will not be in session at that time.

The Hon'ble Mr. SYED NAUSHER ALI: Then what is the utility of shortening the period? There is no gain.

Mr. RANAJIT PAL CHOUDHURY: Then, in that case I am willing to accept the motion for circulation.

Mr. PRESIDENT: The question before the House is that the State Provision for Clinical and Bacteriological Examination Bill, 1937, be circulated for eliciting opinion thereon by the 31st May, 1938.

Motion was put and agreed to.

Mr. PRESIDENT: All other amendments, therefore, fail.

The Bengal Local Self-Government (Amendment) Bill, 1937.

Mr. HUMAYUN KABIR: I beg to move that the Bill be referred to a Select Committee consisting of—

(1) the Hon'ble Mr. Syed Nausher Ali, Minister in charge of the Public Health and Local Self-Government Department,

(2) Mr. Kamini Kumar Dutta,

(3) Khan Bahadur Ataur Rahman,

(4) Mr. Shrish Chandra Chakraverti,

(5) Mr. Nur Ahamed,

(6) Mr. E. C. Ormond,

(7) Mr. Mesbahuddin Ahmed,

(8) Rai Surendra Narayan Sinha Bahadur,

(9) Mr. Moazzemali Chaudhury,

(10) Mr. B. C. Datta, and

(11) the mover,

with instructions to submit their report by the 15th March, 1938, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

At this stage I do not wish to make a speech in support of my motion for a Select Committee. I shall enunciate only the principles underlying this Bill. I am sure this House will agree that these principles are to-day so generally accepted that there should not be any opposition to the motion for a Select Committee. I find from the order paper that the Hon'ble Minister has tabled a motion for circulation, but I think I shall not be very far wrong in saying that the principles underlying this Bill are principles for which he has always stood openly and publicly, and that up to this day he has nowhere expressed any contradiction of his former opinions. Therefore I would merely enunciate the principles of the Bill. The main provisions of the Bill are abolition of the system of nomination, adoption of adult franchise and thirdly, the introduction of voting by secret ballot. With regard to these, there has been a lot of discussion by the public and I am fairly confident there will be no opposition. I shall not inflict a speech on the House now but shall reserve my right of speech for the final reply, if necessary.

Mr. PRESIDENT: The motion moved: "The Bill be referred to a Select Committee consisting of—

(1) The Hon'ble Mr. Syed Nausher Ali, Minister-in-charge of the Public Health and Local Self-Government Department,

(2) Mr. Kamini Kumar Dutta,

(3) Khan Bahadur Ataur Rahman,

(4) Mr. Shrish Chandra Chakravarti,

(5) Mr. Nur Ahamed,

(6) Mr. E. C. Ormond,

(7) Mr. Mesbahuddin Ahmed,

(8) Rai Surendra Narayan Sinha Bahadur,

(9) Mr. Moazzamali Chaudhury,

(10) Mr. B. C. Datta, and

(11) the mover,

with instructions to submit their report by the 15th March, 1938, and that the number of members whose presence shall be necessary to constitute a quorum shall be four."

The Hon'ble Mr. SYED NAUSHER ALI: Sir, I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st May, 1938.

My personal opinion on the main provisions of the Bill is no doubt too well pronounced to be unknown to the members of this House and personally speaking, none would be happier than myself to see the Bill enacted into law with slight modifications. I think if I had been in the position of my hon'ble friend Mr. Kabir, I should have proceeded exactly in the same way as he has done but I shall not be wrong when I say that in matters of legislation a Minister has got to proceed too cautiously, specially when he holds a very strong opinion on these points. The Minister has got to take into consideration all shades of public opinion. The Bill makes provision on certain aspects of the constitution of local bodies which are of a far-reaching consequence. Admittedly these provisions are some of the ideals to be attained. Admittedly again, there is still a difference of opinion as to whether or not the time is ripe for the attainment of this goal. Under these circumstances, I submit to the House that whatever my personal opinion might be, I should not be blamed for asking for circulation of this Bill for eliciting public opinion.

I have got one more thing to say. The proposals involve certain administrative and financial implications and before Government can

come to a definite decision as to the acceptance or otherwise of the provisions of this Bill, it is necessary that they should have not only public opinion on the provisions of the Bill but also the opinion of local officers as well as a definite idea as to the costs involved, if the provisions of the Bill be enacted into law. Under these circumstances I hope my motion for circulation will have the support of the House.

Mr. PRESIDENT: The amendment moved: "The Bill be circulated for the purpose of eliciting opinion thereon by the 31st May, 1938."

Mr. NAZIRUDDIN AHMAD: I rise to support the motion for circulation of this Bill. There are three principles on which the Bill is based. One is the introduction of the ballot system of voting, the second is the introduction of adult franchise and the third is the abolition of nomination. With regard to the introduction of the adult franchise, it is not an unmixed good. It has its pit falls and difficulties. The electorate is already too large and consists mostly of uneducated people. To extend this would merely complicate matters. In fact by introducing the adult franchise, one trouble would be that a fluent speaker, irrespective of any personal merit of his candidate, will make a strong speech near the election booth when ignorant voters are likely to be carried away by false sentiment and the right type of men will not be elected. We have seen at the last General election that with the present electorate an election is attended with enormous costs. To extend the electorate further would be to send up the costs still higher without producing any real benefit to the people.

With regard to the ballot system of voting, similar difficulties will arise. Ballot system of voting requires and presupposes some amount of education among the voters. It will lead to unwholesome influence being exerted on their leading to the worst abuses. It is now too early to introduce this reform and in fact it is quite possible to go too far in the matter. There is reason to be cautious. Then as regards the abolition of nomination, there are difficulties also. There are certain places within the province where certain interests require special protection. At the time of voting they may not obtain that amount of support which their position may require. Experts may be necessary to be nominated and nomination alone can find a place for them. With regard to that part of the province where I come from, namely, Burdwan Division, there are various other difficulties. One is that the Muhammadans are in a microscopic minority, their percentage is extremely small. Reserved seats will not give them any protection whatsoever. There are reserved seats in the municipalities but they only lead to abuses. We find that of two Muhammadan candidates, the one who is really inferior is very often supported by a large number of voters of the other community and has got a much better chance

of being elected. Voters and election speakers all extol the virtues of the majority and they all agree and give out that when there are two such candidates who are entirely at their mercy it is far better to have the worse candidate elected than his competitor. This is done openly and we have no help in the matter. Thus in these places nomination would be an effective means in the hands of Government to maintain communal balance and proportion and correct in equities. Then, apart from this, there are the other minority interests which may require protection. I do not know what other difficulties there are in other parts of the province but with regard to that portion of the province where I come from, this difficulty is universal. Thus on the three fundamental principles of the Bill there may be much differences of opinion, and in these circumstances it is desirable to ascertain local opinion before undertaking a legislation like this. After a study of the opinions the House may adopt discriminatory legislation to provide difference of treatment to suit diverse local conditions. In these circumstances I submit that circulation for eliciting public opinion would be particularly necessary in this case. I can quite conceive of similar difficulties in the case of other minority communities in other places who are situated like us. The scheduled castes in general and the caste Hindus in Eastern Bengal might suffer from similar difficulties. In these circumstances collection of public opinion would be necessary to enable us to come to a really satisfactory solution. With these few words I beg to support the motion for circulation.

Khan Bahadur M. SHAMSUZZOHA: I rise to support the motion for eliciting public opinion. My friend Mr. Naziruddin Ahmad has pointed out some of the features which at the present moment do not seem to be happy. If the Bill is enacted, so far as we, the people of Western Bengal are concerned, there are difficulties. Even people who are in a majority cannot be expected to exercise the franchise in a proper manner for want of education and for want of other facilities. As the Hon'ble Minister in charge has pointed out that although the provisions that are sought to be introduced in this Bill may appeal to idealists, but judged from a practical standpoint it would be very difficult to achieve the object with which this Bill has been conceived. So far as the minority question and the electorate are concerned, there is a divergence of opinion even with respect to the constitution of the legislature. Really the time has not yet come when the electorate may be considered as properly educated. Even in matters which concern the constitution of the legislature, there is so much difference of opinion. So in the case of local bodies, particularly in district boards, in which large interests are at stake, the principles which have been enunciated in the Bill, if enacted into law, will create greater difficulty.

Now, Sir, as regards the question of abolition of nominations, we at the present moment cannot accede to this principle in view of the fact that the present Government is composed of representatives of the people. For, Sir, we have not got, really speaking, an alien government now, but a government, which consists of the representatives of the people and the Cabinet is formed from amongst the representatives of the people. If the representatives of the people who are now the Ministers and who will really guide the destinies of the people can be trusted, then nominations will, I think, be conducive rather than harmful. Further, so far as the present state of affairs is concerned, we think, Sir, sudden abolition of nominations instead of doing good to the people may cause harm. So, judging from that standpoint also we think that it will be better to retain nominations for some time more. From many sides it may be seen that if the Bill is referred to the Select Committee, these points of view cannot be adequately given due weight. Therefore, it will be better to publish the Bill for eliciting public opinion.

Mr. E. C. ORMOND: Mr. President, Sir, I would only desire to say this in regard to this motion, that the Group to which I belong, are in favour of this Bill being circulated for public opinion. This Bill, Sir, obviously affects or would affect, if it was passed into law, the whole of Bengal. I understand the three main features of the Bill are, firstly, to do away with nominations for the officers on local bodies; secondly, to enlarge the franchise of the voters who will vote for the votable officers of the local bodies; and thirdly, for a secret ballot. On the mere statement of those changes, not to use the word reforms,—for as you will have noticed, Sir, and the House will have noticed, there are evidently very divergent views whether this is going to be a reform at the present moment or not—those changes, Sir, the mere mention of them, show that the matters with which this Bill is concerned are of very considerable importance. This Bill will also affect particularly the *mufassil* and for that reason also we would take the view that the people living in the *mufassil* should be given a full opportunity and sufficient time to consider their views and state them. Then, Sir, what is the hurry over having this Bill sent to a Select Committee and put into law at once? There have been such large constitutional changes already in the administration of Bengal, that I would suggest respectfully to this House that it is better that the people primarily affected and the people who have to work under the altered conditions of administration, should have time to get used to the position and consolidate the position as it has been altered. I think I need say little more than that.

Now, the hon'ble member Mr. Humayun Kabir would like his Bill to be a good Bill, and I would suggest to him, Sir, that he may be willing to accept the circulation of the Bill in order to receive all the

assistance that may be possible from other persons, who may be very directly affected by this new method of administration; and I would only say this, Sir, that the administration of these local bodies is certainly not a minor matter in the administration of this province.

With these words, Sir, I would support the amendment which is to circulate the Bill for eliciting public opinion.

Mr. KAMINI KUMAR DUTTA: Sir, I rise in support of the main proposition for referring the Bill to the Select Committee. Indeed, there has been discussion as to the main principles involved in the Bill. Now, the point for decision of the House is not whether we are going to accept all the provisions. The point for consideration is whether there is any matter of utility in postponing the reference of the Bill to the Select Committee by sending it for circulation for inviting public opinion. It has been said that the Bill involves very important matter of changes; it does, no doubt. It involves the question of franchise, the question of secrecy of votes and the question of the abolition of the principle of nomination. But these are not matters which are new to us. These are matters which have been before the country for a very long time and people have thoroughly discussed this matter, and I can say that they have already formed their opinion about it; and if we are true representatives of the people, in that case there is no reason why we should fail really to voice forth the true opinion of the people here. The whole trend of the motion for amendment is that it involves very important questions, but certainly whenever any new enactment comes, it does involve new matters and it involves important matters. The real issue before us is whether the Bill should be sent to the Select Committee and then certainly the Select Committee will send the Bill to the whole House, and whether it should be done with expedition or the real consideration of the matter should be postponed by inviting public opinion. If the Bill had asked for incorporation of an altogether novel principle, in that case, the question of circulation might have been useful; but when the matters involved and incorporated in the Bill were already before the people, and the people fully know what to think of them, I think the best course for us would be to accept the main proposition for reference to the Select Committee.

Mr. LALIT CHANDRA DAS: Sir, I rise to oppose the amendment. I am of opinion, Sir, that this should be immediately referred to Select Committee. The grounds that have been advanced by the Hon'ble Minister seem to me to be a little bit strange. He has told us, Sir, very distinctly that he supports all the points that have been raised by Mr. Humayun Kabir. If the Hon'ble Minister himself would have brought such a Bill, would he have cared to send the Bill for circulation for public opinion? If instead of this Bill being a private

member's Bill, it would have been a Bill on the side of the Government, would the Hon'ble Minister have circulated it for public opinion? I say, Sir, no. As a matter of fact, the representatives of both the Houses know full well what the opinion of the people is in this particular matter. What does the Hon'ble Minister mean by circulation for public opinion? The Bill provides that as a matter of fact, the elected members should be given the power of filling up the places which were done by nomination. Now, public opinion means the opinion of the people and not the opinion of those gentlemen who expect to be nominated by the Government. Is it reasonable to expect that the people would say, "well, no; let nomination remain"? The Bill provides that as a matter of fact power should be given to the people, that the whole thing should be done by the people themselves and that there should be no nomination.

With respect to the other point, namely, the secrecy of votes, well, it is only common sense and not a matter of public opinion. If the people are quite fit to keep up their own independence, this simple right must be given to them, namely, vote by ballot. It is not at all, I say, a matter for public opinion whether the vote should be by ballot or whether it would be done openly when the question is to give them greater independence so that they may freely vote. It stands to common sense that this right to vote by ballot must be conceded.

Now, Sir, with respect to the extension of franchise, if public opinion is sought, will the people say "there should not be extension of franchise"? I say that they will not say so because greater number of people would go to vote. Sir, these are the three points, namely, nomination, voting by ballot and extension of franchise. Does it stand to reason that the people will say "we do not want that a larger number of people would be able to vote, or they should be given the right to vote?" Really it seems to me very strange that this should be again circulated for public opinion whereas the representatives of the people both in the Council and the Assembly are here to express the wishes of the people.

With these words, Sir, I support the motion for the Bill being referred to Select Committee. It is only tactics to delay the whole matter. It has come now to be a fashion with our Ministers to urge that every reasonable Bill of private members should go for circulation for public opinion. It is eminently a reasonable Bill and it should go immediately to the Select Committee.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, the last two speakers who have opposed the amendment of the Hon'ble Mr. Nausher Ali have ignored the very important fact that it is one of the cardinal principles that when any Bill introduces an important change in the existing law of the land, it is necessary that public opinion should be

elicited, unless it can be shown that the matter is of such an urgent, important and imperative nature that it is advisable to send it to Select Committee immediately. Sir, this Bill proposes not only to do away with nominations but to extend the franchise and make it adult franchise. These two questions—doing away with nominations and at the same time bringing in adult franchise—raise any number of important issues on which no one in this House can say that there is definite public opinion, this way or that way. I most definitely assert that it is not possible to state without eliciting public opinion what the public really want on these two questions.

The question of nomination bristles with difficulty and it is not possible to assert definitely that the public opinion is in favour of doing away with nomination. I am certain when this Bill is taken into consideration or when it is sent for eliciting public opinion, it will be found that there will be a divergence of opinion on this question. There will be people and a large number of people who will claim that it is essential to safeguard the minorities and to ensure their representation to have nomination. There is no doubt that nominations are sometimes made in such a way that they can be criticised but it is impossible to please everybody when you are making nominations. There everybody thinks that he is more deserving than the person who has been nominated and therefore it can be argued that nominations should be done away with. But on the other hand, there are people who are not prepared to stand for election, who are not prepared to spend money, who are not prepared to go through all the trouble of an election and yet they are men eminently capable and suitable for work on local bodies. Nomination of these men on the local bodies will be of immense advantage to the local bodies themselves and it will be in the interest of the local bodies to have these men there and the only way you can have them is by means of nomination. It gives stability to the local bodies. Therefore the question of nomination is not one, the abolition of which should be accepted by the House without consulting public opinion. Once a Bill is referred to Select Committee it is assumed that the principle of the Bill is accepted by the House and therefore the principle of doing away with nomination is one of the most important principles in this Bill which will be accepted if the House refers the Bill to a Select Committee.

Now let me examine the question of adult franchise. My colleague before me has already stated that this adult franchise may result in very much increased expenditure. A report is being prepared and when it will be published it will be seen what a large amount of expenditure Government had to undergo during the last general election —enormous expenditure owing to the increase in the electorate and the recent increase in the electorate of the local bodies by reducing the qualification of voters has considerably increased the electorate.

Without giving this a trial within such a short time, to propose to extend the electorate again by giving adult franchise will not, I think, be right and proper and at least there would be no justification for doing it without consulting public opinion on the question. On the top of that, let me refer to the question of cost. The cost will be tremendous if we are going to ensure secrecy and that voting should be by ballot. The voters' list will have to be prepared and the cost of printing alone will run into lakhs and the burden will fall on the local bodies. As you are well aware, the local bodies at the present time have not the means at their disposal for a large number of things that they would like to do. There is a great deal of work to be done and whatever meagre sources they have, will be used up in preparing electoral rolls. This, I consider, will be very disastrous for the progress and development of local bodies in Bengal.

Therefore, this is another point of view which ought to be considered and last of all it has been an accepted principle of the Legislature that when they propose to legislate for the local bodies such as the Corporation, Local Boards and Union Boards, they never do so without giving them an opportunity of expressing their views on the measures which have been introduced in the Legislature. It would be grossly unfair not to consult them. I ask the members on the other side, supposing Government introduce a Bill proposing to make substantial alterations in the Bengal Municipal Act, do not circulate it for eliciting public opinion, hold no conference with the Chairmen of the municipalities and do not consult the municipalities and straightaway send the Bill to a Select Committee, will it be fair and proper? My friends opposite will be the first to condemn Government if they propose to do that. I see no reason why the same principle should not be applied in the case of local bodies and union boards. I realise that they are not important as some of the bigger municipalities but constitutionally their position is the same as that of the municipalities and if we are legislating for them they should be given an opportunity to express an opinion on the subject. I, therefore, suggest that the members of this House should support the proposal for sending the Bill to circulation. It is most important; it vitally affects the people of Bengal and the Bill should not be referred to a Select Committee without consulting public opinion.

Mr. D. J. COHEN: May I just add one word to the reasons given in support of the Hon'ble Minister. The proposal to introduce adult franchise is one which may look very well on the surface but when examined, will be found to be dangerous with a large percentage of the people uneducated. I think it would be very dangerous to introduce adult franchise. I can tell you from my own experience in this city that there are a certain number of people so uneducated that it is

impossible to explain to them what a vote means, and what is the natural consequence. Any influential man for one reason or another would be able to secure votes from these uneducated people. I think this Bill ought to be sent for eliciting public opinion.

Khan Bahadur MOHAMMAD IBRAHIM addressed the House in Bengali. The following is the English translation of his speech:—

Mr. President, Sir, if the system of nomination under the Local Self-Government Act is abolished, the interests of the minority community, as also, of the scheduled caste Hindus will suffer considerably. For, it may be said without exaggeration that education has not at all spread among these two classes. Hence, they do not, under the pressure exerted by zemindars and Mahajans, venture to act independently and elect their own representatives to the said Board, or Local Board, or Municipality. As long as compulsory Primary Education is not inroduced and as long as education is not spread among these classes, it is not at all desirable to do away with the system of nomination.

I have been for long both a member of a District Board as well as a Commissioner of a Municipality but never have I come across a single individual of the scheduled castes who is either a member of a District Board or a Commissioner of a Municipality. I find that a Hindu of the scheduled castes has been nominated this time a member of the Bogra District Board. Had not the system of nomination been in force and had not the Hon'ble Mr. Mullick been in the Cabinet, that gentleman would certainly not have been able to secure the membership of District Board. It is for this reason that I am in favour of the nomination system.

Rai KESHAB CHANDRA BANERJEE Bahadur: I rise to support the motion for circulation for the simple reason that the Bill proposes to effect some drastic changes in the administration of local bodies in the province. I fully agree with the Hon'ble Minister in charge of the Department who has clearly explained the difficulties in the way of referring the Bill to a Select Committee without consulting public opinion. At the same time I regret to have to join issue with the Hon'ble Khwaja Sir Nazimuddin when he says that the cardinal principle of all legislations is first to consult public opinion. I may add in this connection that this principle was given the go-by in the case of another piece of legislation—I mean tenancy legislation—with which we shall have to deal in the very near future. When I support the motion for circulation, it should not be understood that I am in any way opposed to the principles of democracy which this Bill seeks to

inculcate. It has been stated by some of the speakers that the people of this country want to do away with the system of nomination. I do not know how far this is true, because the public have not been consulted yet and I think if a plebiscite is taken, the result may be otherwise. My experience extending over 6½ years of the administration of a District Board is rather bitter in this respect. The principle of nomination may be open to objection from the democratic point of view, but I do not think that the time has yet come to do away altogether with the system of nomination. In the villages of Bengal we hardly find any educated persons, because they have mostly migrated to the towns where they are engaged in service or in business. It is, therefore, difficult to find suitable persons whose counsel and guidance would be helpful in carrying on the administration of the union and local boards.

Sir, it is common knowledge, as has been rightly pointed out by Mr. Cohen, that an average voter in this country does not know what a vote means. I can cite an instance in support of this assertion. During the last Council and Assembly elections symbols were used directing the voter to vote for the candidate in whose favour he wished to cast his vote. A certain candidate had the lantern as his symbol while his opponents had an axe and a country boat. Now, cleverly one of the agents of the candidate whose symbol was the lantern, put a lantern on the top of the ballot box intended for the other candidate who had a different symbol and the voters were told that they were to put their ballot papers into the box on which a lantern had been placed and in this way a good number of votes was secured from the uneducated electors who would otherwise have voted for another candidate. That being the state of things in this country, I do not think that the time has yet come—and I do not know when the time will come—for introducing the new system. Until Primary Education is made compulsory in Bengal and the masses of the population are able to read and write, I do not think any useful purpose will be served by changing the existing system creating thereby confusion and difficulties.

With regard to the question of adult franchise, I do not think there can be two opinions as regards its desirability. Every one would like to have adult franchise introduced in this country, but, Sir, the question bristles with difficulties, as has already been stated by the Hon'ble Sir Nazimuddin. We have seen that, as a result of the extension of franchise, the cost of running the elections has grown to enormous proportions. In the Local Board as well as in the District Board elections, I can say from my personal experience the election cost has trebled in the course of a few years and the cost incurred by Government in running the last general election must be considerable.

Moreover, it has been stated times without number on the floor of this House that the country is poor and the people can ill afford to bear

the expense of a costly administration. Having regard to this assertion, Sir, I do not think we should introduce a new system which is likely to result in increased expenditure.

With these words, Sir, I support the motion for circulation.

Mr. HUMAYUN KABIR: Mr. President, Sir, I propose to take up the points in favour of circulation which have been advanced by different members, and I shall consider the points raised by the Hon'ble Sir Nazimuddin first.

With regard to his remarks, the first comment that I would make is that his practice seems to be better than his theory, because, although he has condemned on theory many of the provisions which I have tried to introduce with regard to local self-government in this Bill, he has, nevertheless, accepted in practice these very principles in the case of the more extensive sphere of provincial Governmnt. A very much extended franchise is very much the fact and is very much in evidence with regard to provincial Government. Secret ballot is there; the question of increased cost of elections is also there; there we have also the difficulty of the representation of different communities—all these are present in the case of the provincial Government and perhaps in a greater degree. I am sure that the Hon'ble Sir Nazimuddin will not for a moment suggest that the difficulties and problems with which the provincial Government have to deal are in any way less important than those with which a local body has to deal! Therefore, that sort of argument is totally negatived by the practice which is being followed not only in this country but also in every other country of the world with regard to the larger question of the administration of the country or of the province.

Then there is also the question of the cost of printing, etc., etc. But all these are questions of minor detail. The Hon'ble Sir Nazimuddin suggests that if nominations are abolished, then those local bodies will not have the benefit of the experience of men who do not want to fight elections or who cannot afford the expense of fighting elections. In reply to this objection, Sir, I would like to point out that there is such a thing as indirect election, and these gentlemen can come through that channel. As the Home Minister of this province, he has had more to do with constitutions and with elections than many of us, and he should remember the procedure which has been worked out in regard to this very legislature. So, that objection also is not valid.

There was another objection, Sir, with regard to adult franchise and the difficulties to which it would give rise. I would, in that connection submit that if the Government could adopt a wider franchise with regard to provincial administration, how can Government oppose it in the case of local bodies? I would further submit that local self-governing institutions are the field in which people obtain experience in

the way of self-government and in which they may learn how to use their votes and their responsibility as voters, as responsible members of the society. And in this way, by dealing with smaller questions of local interest, they shall gradually acquire experience and that knowledge which is so necessary for dealing with these questions in the larger sphere of provincial or national Government.

There has also been raised the question of circulating the Bill for eliciting public opinion. I think, Sir, it is a generally recognised fact that these questions have been discussed in the country on many occasions. Besides, the motion for referring the Bill to a Select Committee does not in any way negative the proposal for taking opinions from local bodies. If the House likes, it can easily give a direction that when the Select Committee is appointed, it shall be under the obligation to take the opinion of local bodies. I would further submit that even if this opinion is taken now, a Select Committee will be necessary at some stage or other. Here I might say that a Bill which is drafted by a private member suffers from certain disadvantages. There may be irregularities which are merely formal and many of these could be remedied in Select Committee. If, therefore, this is not done at present, and the Bill, as it is now, is sent out for eliciting opinion, suppose we have a Select Committee after that and further changes are considered necessary, what will be the position of the Bill? It seems to me that this will only delay the bringing into force the provisions of my Bill.

Nevertheless, I have to thank all the members, even those who have opposed this Bill; for, generally, they have expressed sympathy with regard to its aims and objects and have generally agreed that such a Bill is necessary. Particularly, I have to thank my friend the Hon'ble Minister for Local Self-Government, who went to the extent of saying that if he had not been in the position in which he is to-day, he would have moved an identical Bill. I think, Sir, that if we have confidence in the Hon'ble Minister for Local Self-Government, that statement itself makes out a case for the Bill being sent to a Select Committee. If after his experience of the administration of the Local Self-Government Department of the Government of Bengal for nine months, which he knows in all its details, he gives it as his considered opinion that if he had been in the position of a private member to-day, he would have moved a similar Bill, it shows that he is prepared to agree that the provisions I have drafted in the Bill which will not present any undue difficulty. And I feel that it would be a question of expression of confidence in the Hon'ble Minister for Local Self-Government to send the Bill to a Select Committee.

With these words, Sir, I urge upon the members of this House to accept my motion to refer the Bill to a Select Committee.

Mr. PRESIDENT: The question before the House is that the Bengal Local Self-Government (Amendment) Bill, 1937, be circulated for the purpose of eliciting opinion thereon by the 31st May, 1938.

The motion was put and agreed to.

Mr. PRESIDENT: The other amendments, therefore, fail.

Adjournment.

The Council then adjourned till 3-30 p.m. on Thursday, the 27th day of January, 1938.

Members absent:

The following members were absent from the meeting held on the 26th January, 1938:—

(1) Baksh, Mr. Kader.

(2) Esmail, Khwaja Muhammad.

(3) Mookerji, Dr. Radha Kumud.

(4) Mukherji, Rai Bahadur Satis Chandra.

(5) Sen, Rai Sahib Jatindra Mohan.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Thursday, the 27th January, 1938, at 3-30 p.m., being the fourth day of the First Session, pursuant to section 62 (*2*) (*3*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble MR. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Detenu Babu Snehamoy Datta.

46. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether Babu Snehamoy Datta of Feni subdivision, brother of Sreejut Shantimoy Datta, B.L., Feni, is a detenu in Berhampore Camp;

(*b*) if so, when he was interned;

(*c*) whether it is a fact that the said detenu Babu Snehamoy Datta is suffering from pain in his chest and occasional attacks of asthma;

(*d*) what his weight was when he first entered as a detenu and what his weight is now; and

(*e*) whether the Government will consider the desirability of letting him free now?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) Yes.

(*b*) 31st March, 1933.

(*c*) He suffers from occasional attacks of pain over the left side of the chest but shows no signs of asthma.

(*d*) Weight on admission into Berhampore Camp—118 lbs. Present weight—132 lbs.

(*e*) The relaxation of existing orders is under examination.

Detenu Babu Rabindra Chakrabarty.

47. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether Babu Rabindra Chakrabarty *alias* Makhan, son of the late Sarat Chandra Chakrabarty, of Comilla, is a detenu;

(*b*) if not, whether he was a detenu formerly;

(*c*) when he was interned;

(*d*) whether he is still in internment;

(*e*) if the answer to (*d*) be in the negative, when he has been released;

(*f*) whether Babu Sarat Chandra Chakrabarty, the father of the aforementioned detenu, died at Comilla on the 21st August, 1937, after a prolonged illness;

(*g*) whether Sarat Babu during his illness wanted to see his son and accordingly sent information to the police;

(*h*) whether police saw him two days before his death and found him dying and promised to wire to the Calcutta authorities in that connection;

(*i*) whether the said detenu was given any information about his father's condition of health;

(*j*) whether the said detenu was given any facility to come and see his father before his death;

(*k*) if not, why not;

(*l*) whether the said detenu was allowed any facility to perform his father's *sradh* ceremony;

(*m*) if not, why not;

(*n*) whether Government contributed anything towards the *sradh* ceremony of the said detenu's father;

(*o*) if not, why not;

(*p*) whether any allowance to the detenu's parents was given during his internment;

(*q*) if not, why not;

(*r*) whether the Government intend to release the said detenu; and

(*s*) if so, when?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) to (*e*) Babu Rabindra Chandra Chakrabarty *alias* Makhan was placed in detention in January, 1933. His release has been ordered recently.

(*f*) Yes, according to the information supplied by his mother.

(*g*) to (*k*) Government received no request either from the detenu or his relatives for permission to allow the detenu to see his father before his death. Government are not aware if the police visited the house before his father's death.

(*l*) to (*o*) Government's standing orders provide that detenus in village domicile shall be allowed all reasonable facilities for the performance of such ceremonies and Government received no request of any sort from the detenu in this connection and no contribution was made.

(*p*) and (*q*) No allowance was granted to the family as the detenu was a student at the time of his arrest.

(*r*) and (*s*) Orders have already been issued for his release.

Mr. LALIT CHANDRA DAS: Will he get the usual allowance of Rs. 15 now for six months?

The Hon'ble Khwaja Sir NAZIMUDDIN: If he applies for it, and subject to the conditions laid down by Government, it starts with a minimum of Rs. 10.

Medical officers for study leave.

48. Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state the reason or reasons, if any, why the claims of senior and more competent members of the Medical Service who are Hindus, have been brushed aside and junior and less competent Muhammadan officers have been selected for study leave this year?

MINISTER in charge of the PUBLIC HEALTH and LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Syed Nausher Ali): The whole question, I am afraid, is based on misconception of facts and the rules relating to study leave and the assumptions on which the question proceeds are not correct. All Bengal Medical Service officers of not less than five years' service and not within three years of the date of optional retirement are, as a rule, eligible for study leave, and no officer can be regarded as having any personal or special claim to such leave. As considerations of personal benefit to individual officers are beside the point, no question of disregarding the alleged claims of any officer can possibly arise, specially as the officers selected were the most suitable.

Mr. NARENDRA CHANDRA DATTA: How were they found to be the most suitable—from the report of the head of the Medical Department or by any other authority or by any test?

The Hon'ble Mr. SYED NAUSHER ALI: In all, nine applications for leave for study abroad came up for consideration before Government with or without the recommendation of the Surgeon-General; out of these nine, Government selected five.

Mr. NARENDRA CHANDRA DATTA: Did Government accept the recommendations of the Surgeon-General or differ from his recommendations?

The Hon'ble Mr. SYED NAUSHER ALI: Not *in toto*.

Mr. LALIT CHANDRA DAS: Who were the officers who were first selected by the Surgeon-General?

The Hon'ble Mr. SYED NAUSHER ALI: That is a confidential matter and I am not prepared to disclose it.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister be pleased to give us a list of gentlemen selected since this scheme came into force?

The Hon'ble Mr. SYED NAUSHER ALI: The list is a heavy one. The list begins from 1904 and ends in 1937. Am I to give all the names?

Mr. HAMIDUL HUQ CHOWDHURY: We will be satisfied if the total number is given. How many of them are Hindus and how many are Muhammadans?

The Hon'ble Mr. SYED NAUSHER ALI: The total number comes up to twenty-six and of this only four are Muhammadans.

Mr. HAMIDUL HUQ CHOWDHURY: Does this number include the persons selected this time?

The Hon'ble Mr. SYED NAUSHER ALI: Yes.

Mr. HAMIDUL HUQ CHOWDHURY: How many were they?

The Hon'ble Mr. SYED NAUSHER ALI: Five were selected this year of which two were Hindus and three Muhammadans.

Mr. HAMIDUL HUQ CHOWDHURY: Did the Hon'ble Minister subscribe to the opinion expressed in this question that the persons who have been selected are junior and less competent in preference to more competent Hindus?

The Hon'ble Mr. SYED NAUSHER ALI: Not at all.

Mr. HAMIDUL HUQ CHOWDHURY: Are they really less competent?

The Hon'ble Mr. SYED NAUSHER ALI: The question of competence does not, strictly speaking, arise.

Mr. HAMIDUL HUQ CHOWDHURY: Who decides such question?

The Hon'ble Mr. SYED NAUSHER ALI: As I have already stated, the principle of selection does not proceed on the question of competency of a particular individual officer.

Mr. RANAJIT PAL CHOWDHURY: Were their academic merits considered?

The Hon'ble Mr. SYED NAUSHER ALI: Their service records are always considered.

Khan Bahadur ATAUR RAHMAN: Is there any communal proportion in selecting these officers?

The Hon'ble Mr. SYED NAUSHER ALI: It is well known that, I am not in favour of things of this kind generally speaking and I do not think that if fairness is observed in selection, any communal proportion is at all necessary.

Mr. NARENDRA CHANDRA DATTA: Why in some cases were the recommendations of the Surgeon-General brushed aside?

The Hon'ble Mr. SYED NAUSHER ALI: Strictly speaking, I am not bound to say this, but in order to remove a misunderstanding, I should like to state that administrative and departmental requirements as well as the aptitude of the candidates are taken into account. The real test is the interest of the State and not the interest of any particular candidate.

Accumulation of Rain Water in certain Areas.

49. Mr. HUMAYUN KABIR: (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state what steps have been taken by the Public Health Department to relieve flooding of Tollygunge and Panchanangram areas which are often flooded during the rains?

(*b*) Will the Hon'ble Minister be pleased to state when Dr. B. N. Dey's Kulti Outfall Scheme was first placed by the Corporation before the Government?

(*c*) When was it sanctioned under section 251 of the Calcutta Municipal Act?

(*d*) Is it a fact that the delay in according sanction to the said scheme was mainly due to the proposal for restoring Bidyadhari which was being considered by the Government?

(*e*) Is it a fact that the present stage of affairs is due to want of foresight, and to constructive policy of technical experts of the Government in delaying sanction to the Corporation outfall scheme?

The Hon'ble Mr. SYED NAUSHER ALI: (*a*) Government are advised that on account of the silting up of the Bidyadhari river which was the natural drainage outlet for this area, relief by gravity flow is no longer possible and that the only possible way of giving relief, so far as the municipal area is concerned, is to isolate the homestead area by the construction of an embankment and then to de-water it by pumping into the storm water channel of the Calcutta Corporation.

A scheme has been prepared for the embankment and steps are being taken for securing the requisite land. It is expected that the scheme will be executed in course of the next financial year provided the Tollygunge Municipality and the other bodies concerned contribute their share of the cost involved.

(*b*) In September, 1930.

(*c*) In July, 1935.

(*d*) and (*e*) The scheme submitted by the Corporation for the drainage outfall had to be examined very carefully. An expert committee was appointed by Government for examining the suitability of the scheme, but it did not recommend its acceptance. It suggested the examination of several alternative schemes, including one for the restoration of the Bidyadhari river. After the whole matter had been fully investigated, a conference was called by Government and it was decided that the Engineers of the Government and of the Corporation of Calcutta should consider the technical aspects of the Corporation scheme. An agreement was eventually reached between the Engineers, and Government accepted their recommendation for approval of the Corporation scheme providing an outfall to the Kulti river as modified by inclusion of pre-settlement of sewage and adequate sluice capacity.

The delay was due to the very careful and thorough investigation that the importance of the scheme demanded.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state if it is a fact that before September 1930 the technical experts

of Government had examined the scheme for restoring the Bidyadhari and had expressed the opinion that it was not feasible?

The Hon'ble Mr. SYED NAUSHER ALI: I am sorry I cannot reply to this question off-hand.

Mr. NARENDRA CHANDRA DATTA: What is the amount that has got to be contributed by the Tollygunj and other municipalities for the completion of the scheme?

The Hon'ble Mr. SYED NAUSHER ALI: According to the accepted principle, Government generally contribute one-third of the cost of each scheme and the balance has got to be found by the municipal authorities concerned. In this case I think Government will be agreeable to contribute its share provided the other two-thirds are coming forward from the Tollygunj Municipality and the other bodies concerned. It is mainly a drainage scheme for the Tollygunj Municipality and naturally the major portion of the burden at least should fall on the Tollygunj Municipality.

Mr. NARENDRA CHANDRA DATTA: What will be the total cost of the scheme?

The Hon'ble Mr. SYED NAUSHER ALI: It will be between Rs. 1,25,000 and Rs. 1,50,000.

Mr. NARENDRA CHANDRA DATTA: Is the Tollygunj Municipality in a position to contribute two-thirds of the cost of the scheme?

The Hon'ble Mr. SYED NAUSHER ALI: That is a matter of opinion. We have asked the Municipality to prepare a scheme and it is for them to approach Government for a grant and not for Government to take the initiative.

Mr. HUMAYUN KABIR: May I ask the Hon'ble Minister if he is responsible for changing the criticism of the destructive policy of technical experts to an appreciation of the constructive policy of these experts?

The Hon'ble Mr. SYED NAUSHER ALI: That is again a matter of opinion.

50. Mr. KANAI LAL GOSWAMI: (*a*) Is the Hon'ble Minister in charge of the Public Health and Local Self-Government Department aware of the sad plight of the people of Kasba, Tollygunge and

the adjoining area in the suburbs of Calcutta due to accumulation of rain water during monsoons caused by the absence of the proper drainage?

(*b*) Will he be pleased to state whether a regular survey and a systematic investigation of the cause and the remedy of the disease has been undertaken by Government in this connection?

(*c*) If so—

(*i*) what are the recommendations which have been finally adopted;

(*ii*) what is the total cost of the scheme concerned; and

(*iii*) when is it proposed to be given effect to the same?

The Hon'ble Mr. SYED NAUSHER ALI: (*a*) Yes.

(*b*) and (*c*) (*i*) The hon'ble member is referred to the reply given to question No. 49 (*a*) of the session of the Bengal Legislative Council.

(*c*) (*ii*) and (*iii*) The total cost of the scheme and its apportionment have not yet been settled. The scheme is expected to be executed in course of the next financial year.

Rent paid by Tenants.

51. Mr. NAZIRUDDIN AHMAD: Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

(*a*) the amount of gross total rent annually payable by the tenants to their immediate superior landlords as ascertained by the latest settlement operations or otherwise—

(*i*) in the permanently settled estates, and

(*ii*) in the temporarily settled estates;

(*b*) the total amount of the annual revenue at present payable by the said *zamindars*, *talukdars* and other proprietors of estates—

(*i*) in the permanently settled estates, and

(*ii*) in the temporarily settled estates?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) These statistics are now being compiled by the Special Officer in the department and will be available to the member when completed.

(*b*) (*i*) Rs. 215 lakhs, and (*ii*) Rs. 25 lakhs.

Mr. NAZIRUDDIN AHMAD: With regard to question arising out of answer (*a*), am I to understand that the total rental cannot be compiled and supplied by the Government easily by mere reference to District Settlement records?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is not a very easy task to compile figures from the District Settlement records. One has to go through each *khatian* of all the districts.

Mr. NAZIRUDDIN AHMAD: Is it a fact that notice of this question was given about four months ago?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It may take years. In a matter like this four months' time is, I should say, very short.

Khan Bahadur ATAUR RAHMAN: May I enquire if the annual reports of the Settlement Officers practically of all the districts are finished and the figures are available? Can it not be collected from these settlement reports?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Figures are being collected from the available sources and I presume that it will take quite a long time.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Can it not be ascertained from the final settlement records of every district that give the total rental of the entire district easily?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I assume, Sir, that the Government have still in their service many capable officers who can collect these figures from the available sources.

52. Mr. NAZIRUDDIN AHMAD: Will the Hon'ble Minister in charge of the Revenue Department be pleased to give in a tabular form the details of the figures given in answer to question No. 51 showing, district by district, or in other convenient units—

(*i*) the total area in each unit adopted,

(*ii*) the total areas of the revenue-free estates therein,

(*iii*) the total areas of rent-free holding therein;

(*iv*) the total present area of revenue paying estates;

(*v*) the total gross annual rents payable by the tenants to their immediate landlords in the said areas;

(*vi*) the total annual revenues payable by the *zemindars* and other proprietors to Government; and

(*vii*) the figures for the permanently settled estates and temporarily settled estates in separate tables?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The hon'ble member is referred to the Appendices to the Report on the Land Revenue Administration of the Presidency of Bengal for 1935-36.

(*i*) The total area in each unit adopted is given in column 3, Appendix I of the Report.

(*ii*) and (*iii*) The areas of revenue-free holdings are not given, but the number of such estates and holdings is given in Appendix XX of the Report.

(*iv*) (*vi*) and (*vii*) A statement is laid on the table.

(*v*) Statistics are now being compiled by the Special Officer in the department and will be available to the member when completed.

Statement referred to in the answer to question No. 52.

(*iv*) The total present area of revenue paying estates.	68912·41 square miles.
(*vi*) The total annual revenues payable by the *zemindars* and other proprietors to Goverment; and	The current demand of land revenue in Bengal is Rs. 3,12,00,557.
(*vii*) Figures for the permanently settled estates and temporarily settled estates in separate tables?	Permanently settled estates—2,15,01,274 and temporarily settled estates—25,29,174.

Appointment of Kanungoes in Court of Wards.

53. Khan Bahadur ATAUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state how many retired officers are engaged in the Court of Wards?

(*b*) Will the Hon'ble Minister be pleased to state—

(*i*) their names;

(*ii*) the amount of salary now being drawn by them; and

(*iii*) the amount of pension given to them?

(*c*) Will the Hon'ble Minister be pleased to state which of these officers started their career as a kanungo?

(*d*) Is the Hon'ble Minister considering the desirability of appointing settlement kanungoes in these posts in preference to the superannuated officers?

(*e*) Is the Hon'ble Minister considering the desirability of requesting the District Boards or other local bodies to appoint these kanungoes in preference to other retired men?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) 5.

(*b*)	Names.	Amount of salary.	Amount of pension.
		Rs.	Rs. as.
1.	Rai J. N. Sircar Bahadur (retired Deputy Collector), Manager, Kashimbazar Estate	1,000	500 0
2.	Rai Kalipada Maitra Bahadur (retired Deputy Collector), Manager, Murshidabad Nawab Estate ..	600	448 15
3.	Babu Satish Chandra Guha (retired Deputy Collector), Manager, R. M. Roy Estate	180	275 0
4.	Maulvi Daliluddin Ahmed (retired Sub-Deputy Collector), Assistant Manager, Murshidabad Nawab Estate	225	206 9
5.	Babu Prabhat Chandra Sen (retired Sub-Deputy Collector), Additional Manager, Searsole Estate ..	200	217 6

(*c*) Nos. 2, 4 and 5.

(*d*) The Board of Revenue and Court of Wards are endeavouring to employ settlement kanungoes in suitable vacancies as they occur, but kanungoes are not generally fitted to be managers of important estates.

(*e*) Appointments to local bodies are under their disposal and Government have no hand in the matter; so they do not consider it desirable to make any such request.

Mr. RANAJIT PAL CHOUDHURY: With regard to answer (*d*), will the Hon'ble Minister be pleased to state if these kanungos cannot be appointed in other subordinate posts in the Court of Wards?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The question seems to be rather vague.

Mr. RANAJIT PAL CHOUDHURY: Cannot these kanungoes be appointed in other posts than Managers in the Court of Wards?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The Court of Wards are trying to provide these kanungoes as far as practicable.

Mr. RANAJIT PAL CHOUDHURY: Can any figures be given as to how many have been appointed during these six months?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I ask for notice.

Bengal Land Revenue (Interest) Act, 1935.

54. Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state as to whether legal opinion has been obtained in connection with my supplementary question asked on the 2nd December, 1936, as to whether the Bengal Land Revenue (Interest) Act, 1935, has not abrogated and nullified the order of the Board of Revenue made in 1909 prescribing the payment of a penalty for the exemption from revenue sale?

(*b*) If so, will the Hon'ble Minister be pleased to lay a copy of the legal opinion on the table?

(*c*) If it has not yet been obtained, will the Hon'ble Minister be pleased to consider the desirability of obtaining the opinion at an early date and place the same on the table?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) No.

(*b*) Does not arise.

(*c*) Government do not consider it necessary to obtain such opinion.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Is it a fact that on the 2nd of December 1936 the Hon'ble Member in charge of the Revenue Department in reply to my supplementary question said that it was a legal matter and opinion should be sought?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I am not aware what opinion was expressed by the Revenue Member of the previous Government.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Will the Hon'ble Minister please refer the matter later on and seek the opinion of the previous Government?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: In any case that does not bind the present Government.

Mr. HAMIDUL HUQ CHOWDHURY: Does the opinion of the individual Minister change with the Government?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It does, Sir, very much.

Excess Payment in Revenue.

55. Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Will the Hon'ble Minister in charge of the Revenue Department be pleased to state that when an excess payment is made in the revenue account in respect of a *tauzi* in a district and this is detected subsequently—

(*a*) whether the Government adjust the excess payment towards the future revenue dues on account of the said *tauzi;*

(*b*) what other alternative steps the Government take in such cases; and

(*c*) how the *zemindar* is to approach the Government in such matters and who is the officer to whom he is to apply?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) Yes, this is done in the Collector's office.

(*b*) None.

(*c*) Government need not be approached for such adjustments, the Collector of the district being the authority competent to make these adjustments either on application or on his own motion.

M. L. Jubilee Institution.

56. Mr. HUMAYUN KABIR: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if it is a fact—

(*i*) that the affairs of the M. L. Jubilee Institution at 29, Mirzapore Street, Calcutta, founded by the late Md. Laik Choudhury of Faridpur, have been mismanaged from almost the very foundation of the school;

(*ii*) that the mismanagement and neglect of the trustees of the school resulted in large defalcations which led to the prosecution and conviction of Mr. G. G. Choudhury, the then Secretary of the school, in 1934-35;

(*iii*) that many of the important trustees, in their deposition before the Chief Presidency Magistrate, in the case of Emperor *vs.* Golam Goffer Choudhury and another, admitted that they had taken very little interest in the school;

(*iv*) that the gross negligence and lack of sense of responsibility of the trustees were the cause of the said large defalcation;

(*v*) that Mr. Mahbubul Haque, once trustee-in-charge, admitted before the Chief Presidency Magistrate in the said case, Emperor *vs.* G. G. Choudhury and another that he had defalcated Rs. 12,325-3-3 (found due from him as per report, dated the 4th August, 1934, of Mr. J. P. Mukherji, Auditor) out of the school funds deposited in the Imperial Bank;

(*vi*) that the defalcation was hinted at in the Audit Report of Messrs. Zaman & Co., for the year which ended 31st December, 1930;

(*vii*) that the trustees overlooked and ignored the said Audit Report of Messrs. Zaman & Co.;

(*viii*) that the trustees are jointly and severally responsible for the amounts of over Rs. 25,000 defalcated by Mr. G. G Choudhury and Rs. 12,325-3-3 defalcated by Mr. Mahabubul Haque;

(*ix*) that Mr. Haque is still a trustee of the said school;

(*x*) that no action has been taken by the trustees to make up for the amounts defalcated from trust funds through their negligence;

(*xi*) that the Assistant Director of Public Instruction for Muhammadan Education, Bengal, and the Inspector of Schools, Presidency Division, reported last year that the administration of the school should be thoroughly overhauled; and

(*xii*) that the *wakfnamah* provides that in case of mismanagement of school funds and gross neglect by the trustees, the Government has the right of setting aside the existing Board of Trustees and appointing a new one?

(*b*) Will the Hon'ble Minister be pleased to state what action, if any, the Government propose to take in order to realise the money defalcated from the school funds?

MINISTER in charge of the EDUCATION DEPARTMENT (the Hon'ble Mr. A. K. Fazlul Huq): (*a*) (*i*) No. But the funds of the institution were in the past badly managed by some of the trustees in their individual capacity.

(*ii*) Ghulam Ghafur Choudhury, a descendant of the founder, who had in terms of the trust been *mutawalli* from November, 1931, to March, 1934, defalcated the funds of the school and was convicted by the court. It does not seem that the trustees as a body were responsible for it.

(*iii*) I have no information.

(*iv*) Does not arise in view of reply to (*ii*).

(*v*) I have no information.

(*vi*) No. The defalcation first came to light in 1934.

(*vii*) No. The trustees initiated necessary action in the matter as soon as the defalcation was discovered in 1934.

(*viii*) It is a question for the court to decide.

(*ix*) No. He is no longer a member of the Board of Trustees.

(*x*) They have already realised from Mr. Mahabubul Haque part of the amount defalcated by him and are making efforts to realise the balance of this amount.

(*xi*) No. The Assistant Director of Public Instruction for Muhammadan Education and the then Inspector of Schools, Presidency Division, submitted a report to the University in 1935, in which they made suggestions for the constitution of the Managing Committee.

(*xii*) No. The deed of *wakf* only provides "that should the Board of Trustees appointed hereby be found negligent in the discharge of the duties imposed upon it as such, any single member of the Board after notice to the Secretary and the other members constituting the Board for the time being, shall be competent to apply to the Government for their intervention, through the Director of Public Instruction, so as to secure proper upkeep and maintenance of the school."

(*b*) The Government do not propose to take any action as the present Board of Trustees is taking necessary steps in the matter and as no member of the Board of Trustees has made any representation, through the Director of Public Instruction, establishing the necessity for intervention by the Government.

Mr. NAZIRUDDIN AHMAD: With regard to answer arising out of (*a*) (*x*), will the Hon'ble Minister be pleased to state since when Mr. Mahabubul Haque has ceased to be a member of the Board of Trustees?

The Hon'ble Mr. A. K. FAZLUL HUQ: I must have notice.

Mr. NAZIRUDDIN AHMAD: With regard to answer to (*x*), what was the amount defalcated? And what is the proportion realised and when?

The Hon'ble Mr. A. K. FAZLUL HUQ: I must have notice to look into it. I have not the figures now.

Mr. HUMAYUN KABIR: There are explicit references. The figures are given in the question itself. But my supplementary question is, is the Hon'ble Minister aware that the two parts of answer to (*a*) (*i*) are contradictory to each other? How is it possible for the Trustees to mismanage the funds of the institution in their private capacity when their relation with the institution is in their capacity as members of the Board of Trustees?

The Hon'ble Mr. A. K. FAZLUL HUQ: I admit, Sir, the phrase "in their individual capacity" is redundant. You may omit it.

Mr. HUMAYUN KABIR: If it be omitted, what is the force of the answer now?

The Hon'ble Mr. A. K. FAZLUL HUQ: They have been badly managed.

Mr. HUMAYUN KABIR: It will then mean that answer "no" is not correct.

The Hon'ble Mr. A. K. FAZLUL HUQ: "No" is correct in this sense that the question was whether the affairs have not been mismanaged from almost the very foundation of the school, but that they have been mismanaged is admitted and is a fact.

Mr. HUMAYUN KABIR: Is it not a fact that the *wakfnamah* was executed in 1910 and the first defalcation took place in 1919, the second in 1926 and the third in 1932? Does that not prove that there was mismanagement from the very beginning?

The Hon'ble Mr. A. K. FAZLUL HUQ: No, Sir. According to the statement made by the hon'ble member, for nine years at any rate there was no defalcation.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister be pleased to state if in view of the serious state of affairs disclosed by answers, he will give an assurance to this House that in future Government will keep a strict eye upon the management of the said Board of Trustees who have been responsible for defalcating a large amount of money?

The Hon'ble Mr. A. K. FAZLUL HUQ: In order to satisfy the hon'ble members, I may state that the affairs of this institution are still in a very unsatisfactory state and I admit that it is a matter of public duty both of Government and the Trustees that the matter should be

put on a satisfactory footing. If hon'ble members were to see me and suggest propositions, I should be prepared and very glad to take steps.

Mr. HAMIDUL HUQ CHOWDHURY: I may make one suggestion at the present moment and that is that Mr. Mahabubul Haque should be proceeded with in a criminal court.

The Hon'ble Mr. A. K. FAZLUL HUQ: I hope the hon'ble member would see me and suggest to me instead of doing that at the present moment. As I have said it is necessary that the matter should be looked into. I hope that will satisfy the hon'ble members.

Mr. HUMAYUN KABIR: In view of the assurance given by the Hon'ble Minister, I shall not press with further supplementary questions, but may I ask him to answer whether it does not appear from the replies which have been prepared by his office that there is an undue anxiety to shield the Board of Trustees?

The Hon'ble Mr. A. K. FAZLUL HUQ: It is a matter of comment and opinion.

Girls' schools in Bhatpara Municipality.

57. Mr. LATAFAT HOSSAIN: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) how many Muslim and non-Muslim girls' schools are there in the Bhatpara Municipality;

(*ii*) how many girls' schools are getting municipal stipends from this municipality;

(*iii*) how much grant is sanctioned for the Muslim girls' school;

(*b*) whether there is a primary girls' school at Authpore?

(*c*) if so, whether a relative of the Chairman of the municipality is the teacher of that school?

(*d*) whether the said school received Rs. 300 out of discretionary grant last year for furniture?

(*e*) if so, whether the furniture has been purchased?

(*f*) whether the house for the said school is a rented house?

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*) (*i*) One Muslim girls' primary (maktab) school and six non-Muslim girls' primary schools.

(*ii*) All the schools referred to in (*i*) above.

(*iii*) A stipend of Rs. 25 per month.

(*b*) Yes.

(*c*) Yes, one of the two teachers of the school is distantly related to the Chairman.

(*d*) and (*f*) No.

(*e*) Does not arise.

Extra copyists in the office of the Registrar of Assurances.

58. Mr. KRISHNA CHANDRA ROY CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether the extra copyists of the office of the Registrar of Assurances, Calcutta, have yet received their remuneration for the month of July, 1937?

(*b*) (*i*) If so, when did they receive their remuneration?

(*ii*) If not, what are the reasons for the delay?

(*c*) Is the Hon'ble Minister aware that the remuneration of the extra copyists of the said office for the month of May, 1937, was paid only in July last?

(*d*) If so, is the Hon'ble Minister considering the desirability of inquiring into the reason therefor?

(*e*) Will the Hon'ble Minister kindly state—

(*i*) when the payments for the respective months of 1936 were made;

(*ii*) if there had been delay, what were the reasons for such delay in payments;

(*iii*) when the Registrar and the Sub-Registrar of that office were paid their respective salaries for the various months of 1936;

(*iv*) who prepares the budget for the expenditure under this head; and

(*v*) whether it is a fact that the Registrar and the Sub-Registrar concerned did suffer on account of any delay in receiving their respective salaries beyond the 7th of the next succeeding months?

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*) No.

(*b*) (*i*) Does not arise.

(*ii*) Under the Transitory Provisions Order, 1936, the amount sanctioned by the Government for expenditure during the first six months of the current year was found to be inadequate.

(*c*) Yes.

(*d*) The reasons were enquired into and steps are being taken to prevent delay in future.

(*e*) (*i*) Bill for May, 1936, was paid in June, 1936, and that for July, 1936, in August, 1936.

(*ii*) Does not arise.

(*iii*) On the first working day of the bank in the next month.

(*iv*) The budget is prepared by the Government.

(*v*) No. The Registrar and the Sub-Registrar received their salaries on due dates.

Education of the defectives.

59. Rai SURENDRA NARAYAN SINHA Bahadur: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether Government intend to adopt measures for considerable expansion of the education of the defectives in Bengal, that is, of the deaf-mute, the blind, and the feeble-minded?

(*b*) If the answer to (*a*) be in the affirmative, does the Hon'ble Minister contemplate inclusion of this special education in the compulsory Primary Education Scheme?

(*c*) If so, what kind of arrangements will be made in the scheme in the light of the special nature of education which require a much longer period of study, and supervision and inspection by experts specially trained for the purpose?

(*d*) If not included in the said scheme, what provision does the Hon'ble Minister intend to make for the education of the defectives on the proper scientific lines?

(*e*) Does the Hon'ble Minister think it essential to open a branch with specialists at the head, under the control of the Education Department of the province, to conduct the whole education policies of the defectives?

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*) It is only recently that the question of education of defectives in Bengal has come into prominence. I should be glad to render all possible help in the expansion of such education.

(*b*) As education of the defectives requires special treatment, it cannot possibly be included in any scheme of compulsory primary education.

(*c*) The question does not arise.

(*d*) I am of opinion that the education of the defectives on scientific lines should at present be left, as in the past, to private organisations, Government lending their support as far as funds permit.

(*e*) The time is not yet ripe for action in the way suggested.

Rai SURENDRA NARAYAN SINHA Bahadur: Will the Hon'ble Minister be pleased to state whether any grant for the defectives' schools has been sanctioned by Government?

The Hon'ble Mr. A. K. FAZLUL HUQ: It is not possible for me to make any statement at the present moment because the budget has not yet been finally prepared.

Debt Settlement Boards.

60. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state—

(*a*) how many applications have been filed and how many of them have been disposed of by the Debt Settlement Boards set up in Tippera, since the establishment of those Boards in the district under the Agriculturists Debtors Act for settlement of—

(*i*) debts between the agriculturists, debtors and the creditors, and

(*ii*) rents between the agriculturist tenants and the landlords;

(*b*) since when the Debt Settlement Boards have been set up in Tippera;

(*c*) what is the total number of those boards in the district;

(*d*) in how many execution cases (money and rent) further proceedings have been stopped in the civil courts by order of these boards;

(*e*) in how many suits (money and rent) further proceedings have so far been stopped in the civil courts by these boards;

(*f*) what were the qualifications and tests in the appointment of the members of these boards;

(*g*) whether knowledge of law was considered necessary for appointment in these boards, and whether in each board there are lawyer-members;

(*h*) whether any time-limit will be fixed by Government for disposal of cases pending before the Debt Settlement Boards, and, if not, why not; and

(*i*) whether it is a fact that congestion of cases in the Debt Settlement Boards and delay in their disposal is causing great hardships to the applicants and holding up business?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*), (*d*) and (*e*) The information is not at present available; figures are being collected, and will be furnished to the member as soon as received.

(*b*) Debt Settlement Boards were first established in Tippera on the 30th July, 1936.

(*c*) 238.

(*f*) There are no fixed qualifications or set tests for such appointments.

(*g*) Knowledge of law was not considered necessary for appointment; there are lawyer-members on many boards.

(*h*) No hard and fast time-limit can be fixed; the question of prescribing a reasonable maximum period for disposing of cases is under enquiry, and when opinions have been received, boards will be informed of the time-limit within which they are normally expected to dispose of cases, and inspecting officers will be instructed to pay special attention to cases which have exceeded the period prescribed.

(*i*) I have no information to this effect, but steps are being taken to relieve any congestion of cases before particular boards, and instructions have already been issued that adjournments should be as few as possible.

Mr. KAMINI KUMAR DUTT: Is the Hon'ble Minister aware that instances have occurred in the district of Tippera where money-lenders were sueing the debtors, the latter sought the protection of the board and got the proceedings against them stayed and will he be pleased to stop such abuse of the Act?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I am not aware of them. I shall look into the matter.

NON-OFFICIAL BILLS.

Mr. HAMIDUL HUQ CHOWDHURY: May I, with your permission, formally move that items Nos. 40 to 50, namely, introduction of Bills, be taken up first?

Mr. KRISHNA CHANDRA ROY CHOWDHURY: I object to this.

Mr. PRESIDENT: When there is objection, I shall follow the usual order of business.

The Bengal Primary Education (Amendment) Bill, 1937.

Mr. NUR AHAMED: I beg to move that the Bengal Primary Education (Amendment) Bill, 1937, be referred to a Select Committee consisting of—

(1) the Hon'ble Mr. A. K. Fazlul Huq, Minister in charge of the Education Department,
(2) Mr. Humayun Kabir,
(3) Mr. Lalit Chandra Das,
(4) Khan Bahadur Saiyed Muazzamuddin Hosain,
(5) Mr. T. Lamb,
(6) Khan Bahadur M. Abdul Karim,
(7) Mr. Kamini Kumar Dutta,
(8) Khan Bahadur Ataur Rahman,
(9) Begum Hamida Momin,
(10) Moulana Md. Akram Khan,
(11) Mr. Sachindra Narayan Sanyal,
(12) Mr. Naziruddin Ahmad,
(13) Mr. Rezzaqul Haidar Chowdhury,
(14) Maharaja Sir Manmatha Nath Ray Chowdhury, of Santosh, and
(15) the mover,

with instructions to submit their report by the 28th February 1938 and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

In moving this motion for referring the Bill to a Select Committee, I have to explain the principle of the Bill and its main provisions. In this connection I would refer to the Statement of Objects and Reasons in which the principles of the Bill are stated. With your permission, Sir, I will read it here:

"It is universally admitted that there is a necessity of a great improvement in the condition of primary education in Bengal."

There is a great demand for free and compulsory primary education which is the foundation on which alone a nation's progress in all spheres of life rests, and it is thought the only remedy for the removal of mass illiteracy. To remedy this state of affairs the Primary Education Act, of which Mr. Surendra Nath Roy was the author, was passed in 1919 and though more than sixteen years have passed, it has produced very little effect. Out of 118 municipalities, only one municipality, viz., Chittagong, has introduced free and compulsory primary education, and that for boys only, because the option in the matter was left to the discretion of local bodies. Similarly, the scheme prepared by Mr. Biss under which Government undertake to pay half the cost, both capital and recurring, of primary education in any town

has made little headway and because local bodies have proved reluctant to find even half the necessary funds. So it is necessary that much more drastic and effective steps should be taken to compel the municipalities to introduce free and compulsory primary education in the course of five years.

The main objects of this amending Bill are—

(1) to provide compulsory attendance at school of all children of ages between six to eleven years within the course of five years, and

(2) to make provision for religious instruction in primary schools.

As regards the main provisions of this Bill, clause 5 provides that a detailed scheme must be prepared within one year from the passing of this Act by every municipality and that scheme should be submitted to Government. The Government will consider it and say what amount of financial assistance they are going to undertake for this scheme. Then they will be asked to provide accommodation for all the children between the age of six and eleven years in the course of five years. At the end of five years Government will be bound to issue a notification declaring that primary education shall be free and compulsory in each municipal area.

Then there is a further provision for a school committee in all municipalities and there are some other amendments. These are the main principles. In this connection I need not emphasise the necessity of the free and compulsory education as soon as possible. There is a persistent cry from every quarter for this and it is a matter of great shame that Bengal, which was once a prosperous province in every way, is sadly lagging behind in the matter of primary education. If we look to the reports of the different provinces, what do we find: we find that there is a great negligence on our part in this very important matter of nation-building. Let us see the report of the Government of India. We find there that in Bengal in the matter of primary education there is a great wastage. I will refer here to some comparative figures from the latest report of the Government of India for the information of the hon'ble members:—

Name of Province.	Percentage of boys in schools to that of school-going age.	Percentage in class IV.	
		Boys.	Girls.
Madras	71.2	31	18
Bombay	59.5	41	31
Bengal	61.5	14	3
U. P.	36.8	25	10
Punjab	51	25	25
C. P.	63	48	25

From these figures it will be apparent that there is a serious wastage in Bengal. Out of every hundred, only fourteen reach class IV. Is it sufficient for the attainment of some sort of literacy? Then what is the necessity of having this smattering of learning? It will be found that there is no compulsion in Bengal, and when all the other provinces are far ahead of Bengal in the matter of primary education, it is a pity that Bengal should be lagging behind so lamentably. From the report it would appear that free and compulsory education has been introduced in the Presidency of Madras in 26 municipalities and in 140 villages; in the Bombay Presidency in 11 municipalities and in 150 villages; in the United Provinces in 36 municipalities and in 357 villages; in the Punjab in 57 municipalities and in 6,238 villages; in the Central Provinces in 25 municipalities and in 431 villages; but in Bengal in only one municipality. The result is that the number of boys and girls in class IV is far greater in other provinces than in Bengal. There is another factor, and it relates to finance. If figures are compared, it would be seen that Bengal spends the least on primary education per head of population. Madras spends Rs. 8-6-5, Bombay spends Rs. 16-8-3, the United Provinces spends Rs. 7-7-2, the Punjab spends Rs. 10-13-6, the Central Provinces spends Rs. 10-5, while it is Bengal that spends the least of all, viz., Rs. 3-6-9. This is a scandalous state of affairs, and it is time that any person who loves his country should do his best to mend this state of things.

Let me now refer to the Interim Report of the Indian Statutory Commission on Education, viz., to the valuable opinion contained in the Hartog Committee's report. I am reading from page 86, paragraph 101, entitled "The State and Compulsion". It runs as follows:—

"The majority of the legislative enactments in the provinces have left the adoption of compulsion to local option. Under the Bombay Primary Education Act, however, power has been given to Government to enforce the adoption of compulsion by local boards in cases in which Government consider that the time is ripe for compulsion and in which the local boards have themselves failed to initiate a scheme. We understand also that the draft Bills which are under the consideration of the Governments of Madras and Bengal contain similar provisions. It has been argued that the retention of the principle of local option is essential in the interests of the further development of responsible local self-government. Experience in Bengal, however, and, to a lesser extent, in other provinces shows that local option may result in almost complete inaction on the part of local bodies for a considerable period of time to come. It seems clear that a mere enabling statute will not provide any guarantee for the speedy and widespread application of compulsion.

In our opinion, the responsibility for mass education rests primarily with the State and the provision of educational facilities for all classes

of the community and for all areas should not be left entirely to the mercy of local authorities, who may be unwilling, either for political or other reasons, to initiate schemes by which compulsion may be financed, or who, owing to the backwardness of the area or the people, may be unable to devise suitable measures for compulsion on their own initiative."——

Khan Sahib ABDUL HAMID CHOWDHURY: On a point of order, Sir. Is the hon'ble member entitled to read at this length from a printed report?

Mr. PRESIDENT: Certainly he can refer to the report and can read extracts from it but not at great length.

Mr. NUR AHAMED: All right, Sir, I will conclude now. This is the opinion of a very valuable body of experts, and local option has failed in Bengal. So, the time has come to-day for taking powers to enforce compulsion—at least in municipal areas. There is no denying the fact that a municipal area is compact and, therefore, it offers facilities for providing enforcement of compulsion. Besides the area being a compact one, a trained staff is easily available. This question was taken up when the Act of 1919 was passed. Mr. Biss was especially deputed to submit a report and he submitted a report in 1921. In that report he prepared a scheme for 35 big municipalities in Bengal. And according to the Biss Scheme—I mean scheme No. 2—the recurring cost of providing for free and compulsory primary education within these 35 big municipalities was Rs. 5 lakhs and odd. Now, I find from the latest report that the municipalities of Bengal spend on primary education about Rs. 7 lakhs, and Government themselves contribute more than Rs. 5 lakhs, so that the total comes to about Rs. 12 lakhs. If this question is seriously taken up, in my humble opinion the cost of providing primary education in municipal areas will in no case exceed 15 or 16 lakhs of rupees. So, I appeal to the members of this House to support this motion in the name of elightenment. It is a pitiful sight that thousands and thousands of our brothers and sisters are grovelling in the welter of ignorance. So, is it not our duty to relieve them of this darkness and give them a share of the light which education brings? I hope, therefore, that my friends here will support my motion to refer the Bill to a Select Committee.

Mr. PRESIDENT: Motion moved, that the Bengal Primary Education (Amendment) Bill, 1937, be referred to a Select Coommittee consisting of—

(1) the Hon'ble Mr. A. K. Fazlul Huq, Minister in charge of the Education Department,

(2) Mr. Humayun Kabir,

(3) Mr. Lalit Chandra Das,
(4) Khan Bahadur Saiyed Muazzamuddin Hosain,
(5) Mr. T. Lamb,
(6) Khan Bahadur M. Abdul Karim,
(7) Mr. Kamini Kumar Dutta,
(8) Khan Bahadur Ataur Rahman,
(9) Begum Hamida Momin,
(10) Moulana Md. Akram Khan,
(11) Mr. Sachindra Narayan Sanyal,
(12) Mr. Naziruddin Ahmad,
(13) Mr. Rezzaqul Haidar Chowdhury,
(14) Maharaja Sir Manmatha Nath Ray Chowdhury, of Santosh, and
(15) the mover,

with instructions to submit their report by the 28th February, 1938, and that the number of members whose presence shall be necessary to constitute a quorum, shall be four.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st July, 1938.

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, we have listened with great interest to the speech of the hon'ble member who has introduced this Bill, and I will begin by congratulating him on the interest which he has shown for the introduction and expansion of primary education in the urban areas. We all know that his activities in his own town of Chittagong have resulted in the introduction of primary education in that city, and it is but fitting that he should be extremely anxious that the benefits of primary education should be enjoyed by boys and girls in municipal areas throughout the province. I may assure him that with the object which he has in view Government are in perfect sympathy, and if at the present moment, we feel that it is difficult for Government to accept the Bill as it is and send it to a Select Committee for consideration, and if at the present moment I support the motion of my friend and colleague the Hon'ble Sir Nazimuddin for the circulation of this Bill for eliciting opinion, it is not because I want to thwart the object which he has in view or to adopt any dilatory tactics, but because there are certain difficulties which have got to be faced and have got to be solved before a Bill, like the one that is proposed, can be permanently placed on the Statute-Book. I wish to point out to the hon'ble member in the first instance that his proposed

amendment of section 4 of the Act by clause 6 of his amending Bill throws an almost unlimited liability on Government to supplement the resources of municipalities for the introduction of primary education. In the Rural Primary Education Act of 1930, a liability is placed on Government but it is a liability, the extent of which Government know perfectly well, and it is that an amount of Rs. 23½ lakhs shall be contributed by Government towards the advancement of primary education in the rural areas. But in this Bill there is no knowing what the financial burden of Government will be. There is no knowing what the total cost of introducing primary education in urban areas throughout the province will be, and, therefore, the factor of Government's contribution towards this expense is still uncertain and unknown. Government cannot possibly be expected to undertake the responsibility of a charge on public revenues of an unlimited character. I wish also to point out to the hon'ble member that under the provisions of section 82(*1*)(*c*) of the Government of India Act, 1935, strictly speaking, a Bill which throws a liability on the revenues of the province cannot be introduced in this Council. The section reads as follows:—

"A Bill or amendment making provision for declaring any expenditure to be expenditure charged on the revenues of the Province, or for increasing the amount of any such expenditure, shall not be introduced or moved except on the recommendation of the Governor, and a Bill making such provision shall not be introduced in a Legislative Council."

I am not, however, going to take my stand on that or to say that Government at the present moment wish to throw out the Bill on technical objections of that character. I am only pointing out to the hon'ble member the difficulties in the way and the difficulties which have got to be solved before we can proceed to the further consideration of the Bill. Then it is obvious that the municipalities will be most vitally affected in carrying out the provisions of a measure like this. It is proposed to raise the age of instruction of children from four to eleven; at the present moment the age ranges between four and ten. The extra one year will bring into the school thousands of children for whom additional expenditure will be necessary. That, again, will throw an additional burden on the municipalities, and it is essential for us to know how far municipalities are willing and how far they would consent to accept a financial liability of this character.

Then, Sir, it is necessary to find out the opinions of the municipalities on some other points also. The proposed proviso to section 3 of the Act lays down that "if any municipality fails to submit the necessary particulars, the District Inspector of Schools will do so, and the municipal commissioners shall be bound to supply this information to such officer or officers for the preparation of the statement in question and submit the same to the local Government," with the result that

there will be constant conflict between the District Inspector of Schools and the municipality concerned.

Secondly, Sir, if a municipality wants to take up at their convenience schemes for the primary education of boys and girls separately, the whole thing will be taken away. In the Bill as proposed, the municipality will have to provide for both boys and girls within the prescribed period without any distinction whatsoever. Then, again, there is a burden on the municipality which it is for the municipality to consider how far they will be willing to undertake. The Education Department of a municipality constituted under section 456 of the Bengal Municipal Act, 1932, are not sure if it will be permissible to appoint another committee which would exercise the function of the Education Committee.

I do not wish to take up the time of the House by going further into details. It is evident that municipalities being primarily concerned, should be consulted before the Bill is proceeded with. I, therefore, support the motion that has been moved by the Hon'ble Khwaja Sir Nazimuddin that the Bill be circulated for opinion. In the first instance, the municipalities in particular should be consulted on the various points which affect the municipal administration, and in order to expedite matters it has been proposed that the opinion be obtained by July 1938, that is to say, before the next session of the Council. I would, therefore, request the hon'ble member to accept the motion that has been moved that the Bill be circulated for the purpose of eliciting public opinion by the 31st of July, 1938, and when opinions will be received, Government will be prepared to co-operate with the hon'ble member in introducing a measure of this kind.

Mr. NUR AHAMED: In view of the very sympathetic utterance of the Hon'ble the Chief Minister, I am prepared to withdraw my motion and to accept the motion of the Hon'ble Khwaja Sir Nazimuddin, but before doing so, I would request the Hon'ble Minister to reduce the period for circulation by one month, that is by 30th June, 1938, so that I may have the opportunity of bringing the Bill forward at the next session of the Council.

Mr. PRESIDENT: It is for you to accept the amendment as it is.

Mr. NUR AHAMED: I accept the amendment, but I appeal to the Hon'ble Minister to reduce the period by one month only.

The Hon'ble Khwaja Sir NAZIMUDDIN: If there is no objection, we are prepared to limit the period of circulation to 30th June, 1938.

Mr. PRESIDENT: I take it that there is no objection.

The question before the House is that the Bill be circulated for the purpose of eliciting public opinion thereon by the 30th June, 1938.

The motion was put and agreed to.

Adjournment.

The Council then adjourned for ten minutes for prayer.

(*After adjournment.*)

The Bengal Agricultural Debtors' Amending Bill, 1937.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I beg to move that the Bill be referred to a Select Committee consisting of—

(1) The Hon'ble Mr. Mukunda Behary Mullick, Minister in charge of the Co-operative Credit and Rural Indebtedness Department,
(2) Khan Bahadur M. Abdul Karim,
(3) Khan Bahadur Ataur Rahman,
(4) Mr. Humayun Kabir,
(5) Mr. Nur Ahamed.
(6) Mr. Kamini Kumar Dutta,
(7) Rai Keshab Chandra Banerjee Bahadur,
(8) Maharaja Sir Manmatha Nath Ray Chowdhury, of Santosh,
(9) Mr. Kader Baksh,
(10) Mr. C. K. Nicholl,
(11) Mr. Hamidul Huq Chowdhury,
(12) Mr. Krishna Chandra Roy Chowdhury,
(13) Mr. Naziruddin Ahmad,
(14) Mr. Lalit Chandra Das, and
(15) the mover,

with instructions to submit their report by the 28th February, 1938, and that the number of members whose presence shall be necessary to constitute a quorum, shall be five.

The object of this Bill has been briefly stated in the Statement of Objects and Reasons which has been noted at the end of the Bill, but I think it is necessary to explain at some length why I have come forward with this amending Bill so soon after the working of the Act

for such a short period. To me it appears that there are some inherent defects in the original Act and as such unless those defects are removed, there is an apprehension of the object of the whole Act being frustrated. I shall now deal with some of the principal items to which my Bill refers. The agricultural indebtedness of Bengal is a very big problem. In fact, the agricultural population of Bengal is about three crores and it consists of about fifty lakhs of families. Each one of these fifty lakhs of families have some debt. To clear off or to settle the dues of fifty lakhs of families is indeed a very stupendous task, and to attempt to do this by compromise is, I submit, a puerile idea. If you really mean business, you must so arrange matters that there may be adjudication and appeals and second appeals also. Until we do something like that, we cannot expect to do anything and at the end we may find that after having spent Rs. 1 crore, we have not touched the problem at all. From the figures given in reply to my question yesterday, I find that the debt settlement boards which have been working for the last six months, number 1,325 and that they have received applications for the settlement of 81,167 cases. On an average each board received 62 petitions, that is only ten petitions a month, and I believe not even one per cent. of cases has been finally disposed of yet by any of the boards. If we proceed in this fashion, if we receive only ten petitions a month—and, that also in the beginning when there was a rush for filing petitions for obtaining stay orders in execution cases—the result will be that within five years we will not be able to settle the debts of even 50,000 families which comprise only one per cent. of the total number of families in debt. My object in bringing forward this amending Bill is also to save the wastage of Government money. In the last budget Rs. 16 lakhs was provided for debt settlement boards and if this goes on for five years, we shall spend about a crore of rupees, but we may receive by that time only about 50,000 applications and dispose of only 5,000 of them. The result achieved will not justify the cost and the money will be entirely wasted.

I submit that this sort of playing with the problem will not do. We will be charged not only with playing with the problem but also with wasting public money. Therefore if we really mean business, we must have prompt settlements after summary hearing of the parties. The ordinary boards should try to settle cases but when there will be no settlement, they should forward the applications to special boards who will adjudicate the claims on fixed principles to be laid down by Government by rules.

Sir, at the present moment there is no provision for adjudication except in very special cases under section 7 and that only when 40 per cent. of the debt of any particular debtor has already been settled by compromise. There is one provision under section 21 which authorises

the Special Debt Settlement Board to declare any offer by debtor as a fair offer and by such declaration the creditor is placed at a great disadvantage and special disabilities are put upon him. So this section is really meant to coerce the creditors to submit to some sort of compromise. I say, Sir, that this sort of attempt at coercing a compromise is far worse than any adjudication. In an adjudication the creditor or anybody of the party will have the right of appeal and second appeal also, if necessary. But if either of the party has to submit to coercive compromise, he will lose the right of appeal. So, Sir, I think that the special boards should be given power of adjudication. This is one of the main provisions of the Bill that has been put forward by me.

The next serious defect in the Bill is that the Act takes it that by merely fixing the instalments, the debtors themselves will be able to clear off regularly, according to the instalments fixed by the Debt Settlement Boards. But, Sir, we will be in a fools' paradise if we think so, knowing as we do the present economic condition of the tenants and the agriculturists of Bengal. I think we should know that unless some compulsory method be adopted for realisation of these debts, they will never be able to pay off, and the result will be that after one or two instalments they will fail and the holdings will again be sold off under the Certificate Act and the whole tenantry of Bengal will practically be ruined.

Sir, the average income of a Bengal agriculturist is only about Rs. 36 per head per annum. If we leave aside 20 per cent., who are better off and who are in affluent circumstances, the average income of 80 per cent. will be Rs. 25 per head per annum and they are burdened with a debt of Rs. 40 per head for which they have to pay Rs. 10 per head as interest alone. So they are left with only Rs. 15 per head per annum. That is the average income of 80 per cent. of the Bengal agriculturists, and I can prove this from Government statistics, although I do not like to tire the House by detailing the calculations which I have made. But this is a fact. So, Sir, can we expect that persons of such financial condition would ever be able to pay off only because some instalments have been given to them? They have no margin of surplus for paying off these dues. But at the same time I think something must be done for clearance of these debts. So I have made the suggestion in the Bill that instead of merely fixing the instalments, a portion of the holding of the debtor may be temporarily made over to the creditor for enjoyment in complete satisfaction of all his dues for a number of years which should in no case be more than 20. Very often, Sir, it will be possible for the Debt Settlement Boards to prevail upon the creditor to make over the same land again to the debtor to work as a *bargadar* under him. So practically the debtor will lose very little, at the same time very smoothly his debts will be cleared off. This is one of my suggestions.

The third defect is about the clearance of joint debt incurred by people who are not party to debt settlement application. Something must be done to clear these debts also and, after their being given notice, their debts should be separated and settled. Sir, these are the three main provisions which I have proposed in my Bill.

I am confident, Sir, that everyone of us is eager to help the agriculturist to clear off his debts. There may be difference of opinion about the ways and means of doing it. The Bill I have presented will supply a basis for discussion by the representatives of all shades of opinion if it is referred to the Select Committee. I have taken care to include leading men of all the different parties and groups in the committee and I am quite agreeable to take in more as suggested in some of the tabled amendments. Let us all sit together and think over this very important problem, which, I have already stated, is the first step towards mass-upliftment to which all the major parties of this House, I believe, are practically pledged.

The Bill was published in the *Calcutta Gazette* more than three months ago and it will not be a surprise to the people who are interested in it. The capitalist and the landlord section should have nothing to complain when their representatives are in the committee and their point of view will be duly put forward for consideration. It will therefore be mere waste of time if the Bill is sent for circulation again.

With these words I move that the Bill be referred to the Select Committee as proposed by me with direction to submit report by 28th February next.

Mr. PRESIDENT: Before the motion is put before the House the attention of the hon'ble mover is drawn to the fact that Mr. C. K. Nicholl has ceased to be a member of the House. So this motion will be defective unless Mr. Nicholl's name is substituted by the name of another hon'ble member after consulting the European Group. I am also to add that the mover will have to secure the consent of the member before proposing his name.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, after consulting the European Group, I suggest the name of Mr. H. G. Stokes to be substituted in place of Mr. C. K. Nicholl. I have had his consent.

Mr. PRESIDENT: The question is that with the consent of the House the name of Mr. H. G. Stokes is substituted for Mr. Nicholl.

The motion was put and agreed to.

Mr. PRESIDENT: Motion moved: The Bengal Agricultural Debtors' Amending Bill, 1937, be referred to a Select Committee consisting of—

(1) the Hon'ble Mr. Mukunda Behary Mullick, Minister in charge of the Co-operative Credit and Rural Indebtedness Department,

(2) Khan Bahadur M. Abdul Karim,

(3) Khan Bahadur Ataur Rahman,

(4) Mr. Humayun Kabir,

(5) Mr. Nur Ahamed,

(6) Mr. Kamini Kumar Dutta,

(7) Rai Keshab Chandra Banerjee Bahadur,

(8) Maharaja Sir Manmatha Nath Ray Chowdhury, of Santosh,

(9) Mr. Kader Baksh,

(10) Mr. H. G. Stokes,

(11) Mr. Hamidul Huq Chowdhury,

(12) Mr. Krishna Chandra Roy Chowdhury,

(13) Mr. Naziruddin Ahmad,

(14) Mr. Lalit Chandra Das, and

(15) the mover,

with instructions to submit their report by the 28th February, 1938, and that the number of members whose presence shall be necessary to constitute a quorum, shall be five.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st March, 1938.

Sir, in moving this amendment I desire to make my position clear and I would like to convey this idea to my hon'ble friend the mover of this motion that I have not the least desire to adopt any dilatory method. Sir, I am indeed very thankful to him for the anxiety that he feels in trying to hold out some sort of relief towards our suffering rural brethren. I can only assure him that I am no less anxious so far as that idea is concerned; on the contrary, I have been trying my very best for some time as to how we can really be of some service towards these suffering rural brethren of ours in that respect. So far as this Bill is concerned, I am extremely sorry to say, Sir, that it has been rather difficult for me to agree to all the provisions all at once; and therefore, Sir, I have thought it fit to move this amendment for the only purpose that it may give us time to think over this aspect of the question by consulting the various officers who are engaged in the administration

of this measure and also consulting the opinion of those outside their group as to how they feel about all this.

Now, Sir, the Bill has reference to four different aspects. I may also convey the news to this House that there are several Bills pending in the Assembly for the purpose of amending this measure, and added to that number it will give us a very large number of such Bills and for our purpose I have also been thinking as to what measures we could adopt to remove some of the defects that are there in this Act. But, Sir, so far as the suggestions of my hon'ble friend, Khan Bahadur Saiyed Muazzamuddin Hosain go, I need only tell him that it is not at once possible to accept the principles of his amendment. But, Sir, I do not think I should be justified in taking the time of the House by going into the details. I would only tell him that so far his suggestion for an amendment of section 25 of the original Act is concerned, that is embodied in clause 7. You will find that he seeks to suggest that in lieu of payment of instalment a portion of the debtor's land might be made over to the creditor, so that the creditor after enjoying this land for a period of time might be able to pay himself out on the usufruct. Sir, that introduces various difficulties, for in the first instance, there is no provision in the Act itself by which this can be done. He wants to suggest a further amendment in the shape of clause 8 which is to be added to this section 25 (1). But unless there is a provision in the Act itself you can never suggest that the Board will be justified to include that in the award. There is no power given to the Board by the main provisions of the Act by which they can do so, and in the absence of any provision of that nature, I do not think, Sir, that it is a feasible proposition by which we could direct the Board to include this sort of thing in the award by which the boards may be able to settle the difference between the debtor and the creditor.

Then, Sir, the next question that will arise will be this: which portion of the land you are going to take out of the debtor's possession; and then again if there be more than one creditor there will be further difficulties. Then there will arise the question of partition and in the end, if after a number of years the creditor does not make over possession of the land to the debtor, the result will be that various civil suits will crop up, if not criminal cases for breaking of heads or some such thing. These are matters, which, I submit, Sir, with all respects to my hon'ble friend, require very serious consideration for investigation. As to his other suggestion by which he seeks to amend section 9, Sir, if you would be good enough to look into the provision of section 9 of the Act, you will be pleased to find that this power is already given to the special boards, and whenever any request has been made and the proposal sent up, Government have not refused to invest the special boards with this power. Therefore there is no case made out for an amendment of this nature.

With regard to the first clause, by which he seeks to amend section 19 (*1*), whereby some kind of power is given to the boards to bring about an amicable settlement, if 40 per cent. of the creditors come and accept them all, well, there have not been many cases of this description and therefore it has not been possible to say at this stage whether this is absolutely necessary.

However, as I told you at the beginning, the provisions of this amending Bill are rather difficult, if not of an impossible nature. I am entirely at one with the hon'ble member in thinking that some of these can be put into operation if we can give them a proper shape. With regard to his question if there is anything like it pending before the Assembly, I submit that we shall be able to bring forward an amending Bill of a comprehensive nature and I can give this assurance to my friend that there is no lack of sympathy on the part of the Government so far as this Bill is concerned. We have also found some defects during the short time that this Bill is in operation. Regard being had to these defects and the history which I had the privilege of giving before the House the other day in reply to a resolution moved by the Raja Bahadur of Nashipur, I do not think it is necessary for me to go into it again. I can only mention the fact that has been brought to my notice, namely, the position of usufructuary mortgagee. There is no provision in the Act by which it can be dealt with. We hope to include it in the amending Bill. There are two other things which have been brought to my notice. I think it will be necessary for us to come before the Legislature with an amending Bill of this nature. I have asked for time up to 31st March and I can assure you that we shall be able to include some of the provisions which are workable or at least those which we think would be workable and would give us greater relief. I do not suggest for a moment that this Act is perfect. We have to admit that there are some defects. After seeing it being administered for the last few months, I am convinced that it requires amendment and before we meet at the next session we shall be able to bring forward a Bill incorporating all these suggestions. I have every sympathy with the anxiety of my friend the Khan Bahadur for whom I have great admiration and I hope that he will be good enough to accept my amendment. With these few words, I move my motion for the acceptance of the House.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: May I enquire when we may expect the amending Bill and whether the representatives of this House will also be consulted at the time that the Government Bill is drafted?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I can assure my friend that I shall consult members of both the Houses. I have

great regard for the members of the Legislature and I have never suggested anything from which it can be said that it is otherwise. I have the highest admiration for the members of both the Houses. I shall try to bring an amending Bill at the earliest opportunity but it is very difficult to say exactly when we shall be in a position to do so.

Mr. PRESIDENT: The question before the House is that the Bengal Agricultural Debtors' Amending Bill, 1937, be circulated for the purpose of eliciting opinion thereon by the 31st March, 1938.

The motion was put and agreed to.

The Bengal Dentists Bill, 1937.

Mr. HUMAYUN KABIR: Sir, I beg, to move that the Bill be referred to a Select Committee consisting of—

(1) the Hon'ble Mr. Syed Nausher Ali, Minister in charge of the Public Health and Local Self-Government Department,

(2) Mr. Lalit Chandra Das,

(3) Mr. Hamidul Huq Chowdhury,

(4) Maharaja Sir Manmatha Nath Ray Chowdhury, of Santosh,

(5) Khan Bahadur M. Abdul Karim,

(6) Mr. D. J. Cohen,

(7) Mr. Sachindra Narayan Sanyal,

(8) Mr. Naziruddin Ahmad,

(9) Mr. Naresh Nath Mookerjee, and

(10) the mover,

with instructions to submit their report by the 28th February, 1938, and that the number of members whose presence shall be necessary to constitute a quorum, shall be four.

I do not propose to dilate at any length on the principle or necessity of a Bill like this. I am sure that every member of this House will agree that an important profession like that of the dentist should be properly regulated. I am also sure that everyone knows to-day that regulation is lacking in this province. It was for this purpose merely on the lines of the report of the Committee which was appointed by the Government in 1935 that this Bill was drawn up. I think I am right in saying that Government will be prepared to admit that most of the provisions of my Bill are acceptable with perhaps one or two exceptions, one is that the examination for qualifications shall be conducted by a body such as the State Medical Faculty and the other that

there should be no prohibition at least for the time being for those who have been practising as dentists for some time. I would agree to these suggestions being put in if they are pressed. I am sure the House will realise that it is an important matter concerning the public health and I hope I shall have support from all sections of the House in referring this Bill to Select Committee.

The Hon'ble Mr. SYED NAUSHER ALI: I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st May, 1938.

I do not think it would be necessary for me to take up the time of this House for anything except for the purpose of thanking my hon'ble friend Mr. Humayun Kabir for the trouble he has taken in drafting a Bill on the lines of the recommendations of the Committee appointed for the purpose. In fact it has lessened the labour of Government to a great extent and Government have decided to introduce a Bill almost on similar lines in the next session of the Bengal Legislative Assembly.

A member: Why not in this House?

The Hon'ble Mr. SYED NAUSHER ALI: The Bill perhaps would not be ready and it would be easy to get it through earlier if introduced in the other House.

In the meantime I propose that this Bill be sent out for circulation so that it will not be necessary for me to press for circulation there. I will propose there to send the Bill to Select Committee. I had a consultation with my friend Mr. Kabir and he said that he would be prepared to accept this motion for circulation if the date be changed from 31st May 1938 to 28th February 1938. If you would permit me, Sir, I am prepared to accept that amendment. In that case my amendment, as now amended, stands thus—

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 28th February, 1938."

Mr. HUMAYUN KABIR: I agree.

The Hon'ble Mr. SYED NAUSHER ALI: I thank my hon'ble friend and resume my seat.

Mr. PRESIDENT: The question before the House is that the Bengal Dentist Bill, 1937, be circulated for the purpose of eliciting opinion thereon by the 28th February, 1938.

The motion was put and agreed to.

Mr. HUMAYUN KABIR: Before the next item is taken up may I submit that it is the feeling of a large number of members of this House——

Mr. PRESIDENT: That stage has passed. The motion has already been accepted.

The Bengal Revenue Sales (Amendment) Bill, 1937.

Mr. NUR AHAMED: I beg to move that the Bill be referred to a Select Committee consisting of—

(1) the Hon'ble Sir Bijoy Prasad Singh Roy, Minister in charge of the Revenue Department,

(2) Mr. Humayun Kabir,

(3) Mr. Lalit Chandra Das,

(4) Khan Bahadur Saiyed Muazzamuddin Hosain,

(5) Khan Bahadur M. Abdul Karim,

(6) Maharaja Sir Manmatha Nath Ray Chowdhury, of Santosh,

(7) Mr. Mesbahuddin Ahmed,

(8) Mr. T. Lamb,

(9) Moulana Md. Akram Khan,

(10) Mr. Rezzaqul Haidar Chowdhury,

(11) Khan Sahib Abdul Hamid Chowdhury,

(12) Begum Hamida Momin,

(13) Mr. Moazzemali Chaudhury,

(14) Mr. S. C. Chakraverti, and

(15) the mover,

with instructions to submit their report by the 28th February, 1938, and that the number of members whose presence shall be necessary to constitute a quorum, shall be four.

In moving this motion I have to submit to the hon'ble members of this House that this is a very simple amending Bill which wants to give facilities to those proprietors whose estates are sold under the provisions of the Bengal Revenue Sales Act, 1859. The absence of such a provision in the present Act is causing hardship to many proprietors. Sometimes it so happens that a proprietor being a minor, some people acts on his behalf and for some reason or other gets the valuable property of the minor sold and thus the minor proprietors become helpless, poor and destitute all on a sudden. Sometimes it also happens that some of the co-sharers in order to defraud their sharers withhold

payment and in this way get the property sold and purchased in favour of some of their relations. In this way great hardship is caused and people suffer. This law is an old one: it was enacted so long ago as 1859. The Patni Regulation of 1819 was amended with a view to embodying similar provision so recently as 1936. A similar provision has been made in the Civil Procedure Code and the Public Demands Recovery Act. In the amending Bill I have taken good care to see that Government does not suffer in any way in regard to realisation of their revenue. Every protection has been provided: in the case of a sale the person affected by the sale may at any time within thirty days from the date of the sale, deposit the amount for which the sale was affected together with a penalty of five per cent. of the purchase money for payment to the purchaser and other necessary sum for payment to the Collector where the sale is held for a public demand towards satisfaction of any other outstanding charges due to Government. In my humble opinion there is no reason why this additional facility should not be given to the proprietors, when Government's interests will not be affected in any way. The feeling is already abroad that raiyats should be protected. It is a common practice amongst some landholders to get estates auction sold in order to eject the raiyats, whose interests or rights are not protected under section 37 of the Act.

So, I would request the House to support my motion for referring this Bill to a Select Committee.

Mr. PRESIDENT: Motion moved: That the Bengal Revenue Sales (Amendment) Bill, 1937, be referred to a Select Committee consisting of—

(1) the Hon'ble Sir Bijoy Prasad Singh Roy, Minister in charge of the Revenue Department,

(2) Mr. Humayun Kabir,

(3) Mr. Lalit Chandra Das,

(4) Khan Bahadur Saiyed Muazzamuddin Hosain,

(5) Khan Bahadur M. Abdul Karim,

(6) Maharaja Sir Manmatha Nath Ray Chowdhury, of Santosh,

(7) Mr. Mesbahuddin Ahmed,

(8) Mr. T. Lamb,

(9) Moulana Md. Akram Khan,

(10) Mr. Rezzaqul Haidar Chowdhury,

(11) Khan Sahib Abdul Hamid Chowdhury,

(12) Begum Hamida Momin,

(13) Mr. Moazzemali Chaudhury,

(14) Mr. S. C. Chakraverti, and

(15) the mover,

with instructions to submit their report by the 28th February, 1938, and that the number of members whose presence shall be necessary to constitute a quorum, shall be four.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st July, 1938.

Sir, this Bill proposes to amend an Act which has been in operation for the last 80 years, or, to be accurate, for the last 78 years, and up till now we have not heard much complaint against its working. Now, it is proposed that the time-limit for setting aside the sale should be extended by one month, as has been recently done with regard to the Patni Regulations. There is some amount of difference between this Act and the Patni Regulation. First of all, under the Revenue Sales Act after the due date the *tauzi* is advertised for sale, the actual sale does not take place till after two or three months. So, that leaves sufficient time to the defaulting owner of the *tauzi* to put in the money if he is in a position to do so. But I do not propose to go into these details and the merits of the present proposal at this stage. It is an undeniable fact that this law has been in operation for nearly 80 years. The question of realization of Government revenues depends much on the satisfactory working of this Act, and we should therefore do nothing which might jeopardize Government revenues. Government are anxious to give relief to defaulting owners of *tauzis*. But in their sympathy Government cannot afford to overlook the importance of the realization of their revenues. Therefore, I venture to think that on this question we should have public opinion before Government undertake any legislation or agree to amend an Act which has been in operation for so many years.

With these few words, I commend my motion to the acceptance of the House, and I hope the hon'ble member will see the justification of my amendment and will kindly agree to my proposal.

Mr. PRESIDENT: Amendment moved: That the Bengal Revenue Sales (Amendment) Bill, 1937, be circulated for the purpose of eliciting opinion thereon by the 31st July, 1938.

Mr. HAMIDUL HUQ CHOWDHURY: Mr. President, Sir, I do not want to express my opinion as regards the merits of either the motion or the amendment, but what I should like to say is that if the

Bill goes out on circulation, one aspect of the question should not be lost sight of. There is a vast amount of opinion in the country to do away with the zemindary system. The Revenue Sale Law provides a machinery for attaining the objectives without raising great controversy, because under the stringent provisions of Act XI of 1859 the sale has to take place on a certain date as soon as there has been default. No amount of agreeing to pay the amount after the due date will be of any avail to stop the sale, the sale must take place. That being so, Sir, Government in most cases can purchase these estates and become the proprietor. Once Government purchase these lands and become the proprietors by making the sale law more stringent without giving the landlords an opportunity of coming forward and redeeming their properties, the ultimate acquisition of these estates for the State will be made very simple and easy. Sir, that will also take away the necessity of confiscation, which will be the case, if you simply pass an Act by which you abolish the zemindari system. That argument will also be taken away if you can by making the law more stringent directly acquire the zemindaries and ultimately become proprietors of every estate in the country and thereby abolish the zemindari system. Therefore, Sir, if the Bill goes out into circulation, this aspect of the question will have to be taken into consideration. It is for consideration whether those who are of this view should not press for more stringent rules, that is to say, to work the Act more stringently, rather than relax its vigours and thus make it possible for Government to purchase the lands of defaulting zemindars on easier terms and at a very low price and ultimately make the tenants peasant-proprietors.

Mr. PRESIDENT: The question before the House is that the Bengal Revenue Sales (Amendment) Bill, 1937, be circulated for the purpose of eliciting opinion thereon by the 31st July, 1938.

The motion was put and agreed to.

Mr. PRESIDENT: Other amendments fail.

The Bengal Village Self-Government (Amendment) Bill, 1937.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I beg to move for leave to introduce the Bengal Village Self-Government (Amendment) Bill, 1937.

The motion was put and agreed to.

The Secretary then read the short title of the Bill.

The Bengal Non-Agricultural Tenancy Bill, 1937.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move for leave to introduce the Bengal Non-Agricultural Tenancy Bill, 1937.

The motion was put and agreed to.

The Secretary then read the short title of the Bill.

The Eastern Bengal and Assam Disorderly House (Amendment) Bill, 1937.

Mr. NUR AHAMED: Sir, I beg to move for leave to introduce the Eastern Bengal and Assam Disorderly House (Amendment) Bill, 1937.

The motion was put and agreed to.

The Secretary then read the short title of the Bill.

The Bengal Shop Hours and Shop Assistants Bill, 1938.

Mr. HUMAYUN KABIR: Sir, I beg to move for leave to introduce the Bengal Shop Hours and Shop Assistants Bill, 1938.

The motion was put and agreed to.

The Secretary then read the short title of the Bill.

The Mussalman Matrimonial Jurisdiction Bill, 1937.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I beg to move for leave to introduce the Mussalman Matrimonial Jurisdiction Bill, 1937.

The motion was put and agreed to.

The Secretary then read the short title of the Bill.

The Bengal Public Demands Recovery (Amendment) Bill, 1937.

Mr. NUR AHAMED: Sir, I beg to move for leave to introduce the Bengal Public Demands Recovery (Amendment) Bill, 1937.

The motion was put and agreed to.

The Secretary then read the short title of the Bill.

The Bengal Money Lenders' (Amendment) Bill, 1937.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move for leave to introduce the Bengal Money Lenders' (Amendment) Bill, 1937.

The motion was put and agreed to.

The Secretary then read the short title of the Bill.

The Bengal (Rural) Primary Education (Amendment) Bill, 1937.

Mr. NUR AHAMED: Sir, I beg to move for leave to introduce the Bengal (Rural) Primary Education (Amendment) Bill, 1937.

The motion was put and agreed to.

The Secretary then read the short title of the Bill.

The Indian Bar Council (Amendment) Bill, 1937.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I beg to move for leave to introduce the Indian Bar Council (Amendment) Bill, 1937.

Mr. E. C. ORMOND: On a point of order and information, Sir. I do not wish to open a discussion on the point of order now, but if it should be apprehended or found hereafter that this Bill is not in order and should not be introduced, I take it that it will not be suggested that members should have risen to a point of order at this stage. If we may have a ruling on this point, I do not wish to take up the time of this House now.

Mr. PRESIDENT: A legal objection can be raised at any time.

The motion was put and agreed to.

The Secretary then read the short title of the Bill.

The Bengal Children (Amendment) Bill, 1937.

Mr. NUR AHAMED: Sir, I beg to move for leave to introduce the Bengal Children (Amendment) Bill, 1937.

The motion was put and agreed to.

The Secretary then read the short title of the Bill.

The Bengal Money-lenders' (Amendment) Bill, 1937.

Mr. NUR AHAMED: Sir, I beg to move for leave to introduce the Bengal Money-lenders' (Amendment) Bill, 1937.

The motion was put and agreed to.

The Secretary then read the short title of the Bill.

The Calcutta Municipal (Amendment) Bill, 1937.

Mr. SHRISH CHANDRA CHAKRAVERTI: Mr. President, Sir may I have your leave to mention item No. 16 on the agenda paper relating to my Bill entitled the Calcutta Municipal (Amendment) Bill 1937? When my name was called out in this connexion, I happened to be absent, and I understand that the Bill has fallen through. May I with your permission, Sir, move it now?

Mr. PRESIDENT: If that be the desire of the House, I have no objection.

Several members: No objection.

Mr. SHRISH CHANDRA CHAKRAVERTI: Sir, I beg to move that the Bill be referred to a Select Committee consisting of—

(1) the Hon'ble Mr. Syed Nausher Ali, Minister in charge of the Public Health and Local Self-Government Department,

(2) Mr. Lalit Chandra Das,

(3) Rai Monmatha Nath Bose Bahadur,

(4) Mr. Moazzemali Chaudhury.

(5) Mr. Humayun Kabir,

(6) Mr. Ranajit Pal Choudhury, and

(7) the mover,

with instructions to submit its report by the 28th February, 1938, and that the number of members whose presence shall be necessary to constitute a quorum, shall be three.

In moving this motion I may just point out that this is a very simple Bill. There has been an outstanding grievance of the people of Ward No. 27 that though the ward is so large, only one Councillor has been assigned to it. This Bill seeks to increase the number of councillors of this ward by one only. With these words I commend my motion to the acceptance of the House.

The Hon'ble Mr. SYED NAUSHER ALI: Sir, I beg to move that the Calcutta Municipal (Amendment) Bill, 1937, be circulated for the purpose of eliciting opinion thereon by the 31st May, 1938.

Sir, I am at a disadvantage to-day because I have not got the papers with me here, but still I do not feel it desirable to raise a technical objection on that ground. I think we might just take a few of the salient facts that may perhaps induce the hon'ble member in charge of the Bill not to press the Bill any longer. It appears to me and I say this with the greatest respect to the member in charge of the Bill that the measure which proposes to amend the constitution of the Calcutta Corporation has not got that serious consideration in its conception and drafting that it deserves. I say again with the greatest respect that the Bill has been most ill-conceived and most ill-drafted. The Bill proposes, and it appears that this is the only substantive proposal to amend Schedule IV which is no longer in force but became obsolete in 1933 and I do not know what we have got to do with this Bill. Schedule IV relates to the Hindu constituencies before joint electorate was introduced. Now the provision of the Act is that after the fourth election that schedule would become obsolete and that it would no longer be in force. I do not know what we have got to do with the Bill in the present circumstances. Then again there is another proposal —apart from minor inaccuracies and mistakes—that in clause 4 the number of Hindu seats should be increased by two but in the Statement of Objects and Reasons it is stated that the proposal is for increasing it by one. One ward is proposed to be divided into two but that particular ward is no longer in existence and we cannot understand how we are to divide it. With the greatest respect I suggest that this matter may not be proceeded with any further and if the hon'ble member is so advised, he can very well draft a new Bill and introduce it in this Council. But if he still persists, I cannot compel him not to proceed with the Bill. Then the only course open to me would be to suggest circulation, however meaningless the Bill may be——

Mr. SHRISH CHANDRA CHAKRAVERTI: On a point of order, Sir. Does the Hon'ble Minister want to say that there is no Ward No. 27 under the Calcutta Corporation?

The Hon'ble Mr. SYED NAUSHER ALI: I am sorry it refers to ward No. 27 Tollygunj in Schedule IV, namely, the Hindu constituency which is no longer in existence. Therefore it has got no meaning. If he still persists, it may go out for circulation and the ground I advance is that as it proposes to amend the constitution of the Calcutta Corporation, the entire population of Calcutta, both Hindu and Muslim, are vitally interested in it. I may say at once that after the introduction of this Bill, we consulted the Calcutta Corporation and the Corporation

has objected to the amendment in the manner suggested. Then there is still another point. It proposes to increase the number of seats by one or two—whatever it may be—but it does not touch the main section of the Statute, namely, section 5 which provides for the constitution, the number of seats and so forth. In the circumstances, I think it is most desirable, if the hon'ble member persists, that this should go out for eliciting public opinion of the people at large and particularly of the Calcutta Corporation again.

Mr. E. C. ORMOND. I have only one observation to make in this matter. It will be interesting to hear whether the hon'ble member accepts the views that have been put forward by the Hon'ble Minister as correct. If the hon'ble mover of the Bill does accept this statement of the position, I take it that we need not either consider our voting in favour of circulation or the question of sending the Bill to a select committee. But I am not in a position to speak on that point. All that I desire to say is that I understand that if this Bill becomes law it would affect not only the position of Muhammadans but also of Europeans in the city of Calcutta. Now, Sir, Europeans are as much a part of the Corporation of this ancient city as anybody else. I notice that no member of the European Group has been asked to serve on this committee nor is the name of any member of the European group being put forward to serve on the committee. I understand it is a parliamentary practice that when a select committee of the House is appointed, the members are appointed in a manner which is representative of the constitution of the House. I understand that in the Mother of Parliaments what is often done is that there is a standing committee which is concerned with nominating representatives to serve on select committees. We, Sir, being a small House, I think, have no need of having any intricate measure of that sort, but I appeal to the members of this House in their own interests as well as in the interest of having public work done properly, when select committees are nominated or when motions are moved to have a Bill referred to a select committee, that efforts should be made by the mover or by the party to which he belongs, to enable a proper select committee to be available who will be representative of the House. It is on this ground that I would ask the House in this instance to vote against this Bill going to a select committee which is not representative of this House.

Mr. D. J. COHEN: If this Bill seeks to amend the Schedule which is no longer in force, can the House go further into it and send it to select committee or even send it out for eliciting public opinion?

Mr. SHRISH CHANDRA CHAKRAVERTI: I am sorry for not including the name of a European in the committee. If the House allows me, I am quite willing to take a European member. As

regards the point of order raised by Mr. Cohen, I think there is no objection to sending the Bill to a select committee for if any change is necessary, it can be made by the committee.

Mr. PRESIDENT: Mr. Chakraverti, is it a verbal error that can be corrected in the select committee? Is that your contention?

Mr. SHRISH CHANDRA CHAKRAVERTI: Yes, Sir.

Mr. PRESIDENT: Mr. Chakraverti, I find that Schedule IV is no longer on the Statute and your Bill becomes meaningless. Under the circumstances you will be well advised not to press this Bill at all.

Mr. SHRISH CHANDRA CHAKRAVERTI: I beg leave to withdraw the Bill.

Mr. PRESIDENT: Is it the pleasure of the House to allow Mr. Chakraverti to withdraw his Bill?

The Bill was then withdrawn by leave of the House.

Khan Bahadur ATAUR RAHMAN: May we get a copy each of the proceedings of this Council and of the Assembly of the previous session if they are ready by now?

Mr. PRESIDENT: I understand the Assembly proceedings are being circulated to-day. As regards Council proceedings, hon'ble members are aware that we had no staff before. But from the 10th January we have a department of our own and everything is now being expedited. The department will try its best to supply the proceedings as soon as possible.

Adjournment.

The Council then adjourned till 3-30 p.m. on Friday, the 28th January 1938.

Members absent.

The following members were absent from the meeting held on the 27th January, 1938:—

(1) Baksh, Mr. Kader.

(2) Esmail, Khwaja Muhammad.

(3) Mookherjee, Dr. Radha Kumud.

(4) Mukherji, Rai Bahadur Satis Chandra.

B. G. Press—1938-39—1409A—900.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 28th January, 1938, at 3-30 p.m., being the fifth day of the First Session, pursuant to section 62 (*2*)(*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Released political prisoner Babu Satinath Bharadwaj.

61. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether it is a fact that Satinath Bharadwaj, a released political prisoner, after his release took to the trade of exporting fish from Calcutta for the purpose of earning his livelihood and maintaining his family members, and whether it is a fact that for that purpose, he was putting up at the Royal Hotel, Calcutta, as a monthly boarder;

(*b*) whether it is a fact that on the 29th September last at half past twelve of the night, the said Satinath was roused from his sleep by 3 persons, 2 of whom were police officers, who entered into the room after breaking open its doors; and if the answer be in the negative, whether the Government will make an enquiry about it;

(*c*) whether it is a fact that on enquiry as to who they were, one of them said in Bengali to the said Satinath "I am your father, don't you see my dress"; and if the answer be in the negative, whether the Government will make an enquiry;

(*d*) whether on Satinath asking them the cause of their coming at that dead of night the police officer angrily struck a piece of wood with his *lathi* and cried out "I think you are a thief; answer to what I question you"; and if the answer be in the negative, whether the Government will make an enquiry;

(*e*) who the police officers were and what were the queries made by them;

(*f*) whether the Government promised all due facilities to be given to released political prisoners to earn their livelihood;

(*g*) whether the Government consider the treatment such as those mentioned above as pertinent to giving proper facilities to the released political prisoners for earning their livelihood; and

(*h*) whether the Government consider the desirability of taking steps to punish the offending police officers concerned in the matter of the aforesaid Satinath Bharadwaj?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) and (*b*) I have no information whether after his unconditional release on the 23rd August, 1937, Satinath Bharadwaj was engaged in the fish business or not. If by the expression "Royal Hotel" Hotel Royal at 47, Harrison Road is meant or the Royal Indian Hotel at 99, Lower Chitpur Road, I have no information if any person of the name of Satinath Bharadwaj lived in any of the aforesaid hotels in the month of September last. The allegation of a police visit to him is incorrect.

(*c*) to (*h*) Do not arise.

Persons under Detention.

62. Mr. SHRISH CHANDRA CHAKRAVERTI: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) the total number of detenus who have been detained without trial;

(*b*) when they are expected to be released;

(*c*) the total number of political prisoners who have been sentenced after trial;

(*d*) where they are imprisoned, whether within Bengal or outside Bengal, but in India;

(*e*) whether all the prisoners, who were at the Andamans, have been brought back to Bengal;

(*f*) if not, how many are still there and when they are likely to be brought back; and

(*g*) whether any of the said prisoners are suffering from the effects of hunger-strike and if any person or persons have died as a result thereof?

The Hon'ble Khwaja Sir NAZIMUDDIN: The hon'ble member's question is of such a comprehensive character that the statistical information required for the answers does not exist and cannot be collected without an amount of labour which, I regret, Government are not prepared to undertake.

Political prisoner Sreejut Behary Lal Barua.

63. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether it is a fact that Sreejut Behary Lal Barua, an Andaman political prisoner, repatriated and confined in the Alipore Central Jail, has expired in jail?

(*b*) If the answer to (*a*) be in the affirmative, will the Hon'ble Minister please state of what disease he succumbed and when?

(*c*) Will the Hon'ble Minister be pleased to state—

(*i*) to what district he belonged;

(*ii*) of what offence he was convicted;

(*iii*) to how many years' imprisonment he was sentenced; and

(*iv*) when his sentence was due to expire?

(*d*) When and where was the said Behary Babu first attacked with tuberculosis, in the Andamans or in India?

(*e*) (*i*) Has any history sheet of the said Behary Lal's disease been kept?

(*ii*) If so, will the Government publish it?

(*iii*) If not, will the Hon'ble Minister please state the grounds therefor?

(*f*) Is there any rule for convicted prisoners to be released before expiry of their term of sentence on the grounds of health; if so, why was Behary Babu not released?

(*g*) Did Behary Lal or any of his relations apply to the Government for his release; if so, why were their applications refused?

(*h*) Within how many days of the death of Sreejut Nandy, another repatriated Andaman political prisoner of Chittagong, the aforesaid Behary Lal died; whether they died of the same disease?

(*i*) Were the relations of the aforesaid Sreejut Behary Lal Barua informed of his state of health; if so, how many days before his death, were they so informed?

(*j*) To whom was the body of the said Behary Babu delivered for cremation?

(*k*) Is the Hon'ble Minister considering the desirability of releasing forthwith all political prisoners who are suffering from tuberculosis or other serious diseases?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) and (*b*) No convict of this name was sent to the Andamans, but it is a fact that a convicted prisoner named Behary Lal Barua died of tuberculosis in the Alipore Central Jail on the 27th November, 1937.

(*c*) He was a resident of the Chittagong district and was sentenced to rigorous imprisonment for three years under section 6 of the Bengal Criminal Law Amendment Act, 1930. His sentence was due to expire on the 4th July, 1938.

(*d*) In India.

(*e*) Presumably the hon'ble member refers to the Prisoners' History Ticket prescribed by Chapter XI of the Jail Code. The prescribed form was kept for this prisoner in accordance with the Code. Government are not prepared to publish Prisoners' History Tickets in any instance.

(*f*) The hon'ble member is referred to Bengal Jail Code Rules 591 and 592, which may be seen in the Library. The case of the prisoner in question was excluded by the note to Jail Code Rule 592.

(*g*) Yes. As there was no provision in the Jail Code for the release of the prisoner, the question of the application of section 401 of the Criminal Procedure Code to his case with the necessary measures to prevent infection and provide for his treatment after release were under consideration at the time of his death.

(*h*) Convicted prisoner Phanindra Nath Nandi died of tuberculosis on the 27th November, 1937.

(*i*) Yes. They were last informed by telegram on the 25th November, 1937.

(*j*) To Mr. Sarat Chandra Bose.

(*k*) No.

Mr. RANAJIT PAL CHOUDHURY: With reference to answer (*j*), will the Hon'ble Minister be pleased to state if there were no relations who claimed his body?

The Hon'ble Khwaja Sir NAZIMUDDIN: No. They did not come forward at the time and so Mr. Sarat Chandra Bose was informed as, I believe, the political prisoners in the jail suggested his name.

Mr. RANAJIT PAL CHOUDHURY: Was any enquiry made whether he had any relations who could take over the body?

The Hon'ble Khwaja Sir NAZIMUDDIN: At that time they were not available.

Political prisoner Miss Suniti Chaudhuri.

64. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether there was an associate of Miss Suniti Chaudhuri, convicted of the same terrorist offence as that of which Miss Suniti Chaudhuri was convicted;

(*b*) if the answer to (*a*) be in the affirmative, the name of the associate convict;

(*c*) whether it is a fact that both of them were students of class VIII of a girls' high English school;

(*d*) whether Miss Suniti's father belongs to a respectable *bhadralog* family in Tippera and was a ministerial officer in the Tippera Collectorate who retired on pension after a service of over 25 years with unblemished record;

(*e*) whether the father of the associate convict was a lecturer in an Arts College;

(*f*) whether the prisoners are classified according to the mode of living which they were accustomed to before conviction;

(*g*) in what jail that associate convict of Miss Suniti has been lodged and in what class, A, B or C;

(*h*) in what jail Miss Suniti Chaudhuri has been placed and in what class, A, B or C;

(*i*) if Suniti's associate convict has been placed in class B and Suniti in class C, what are the grounds of the differentiation;

(*j*) whether the District Magistrate of Tippera after due inquiry recommended Miss Suniti to be placed in class B in jail;

(*k*) if the answer to (*j*) be in the affirmative, upon whose report Miss Suniti Chaudhuri has been placed in class C, and on what grounds the recommendations of the District Magistrate of Tippera were not acted upon;

(*l*) whether it is a fact that Miss Suniti Chaudhuri is placed with the ordinary non-political criminal prisoners of the lowest class in society;

(*m*) whether the Government intend to consider the case of Miss Suniti Chaudhuri and place her in class B;

(*n*) whether the Government will consider the desirability of transferring her from the Dacca Jail;

(*o*) whether Government received petition from Miss Suniti Chaudhuri detailing her grievances, if so, how many; and

(*p*) why her grievances were so detailed?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) and (*b*) Her accomplice in the murder of Mr. Stevens was named Miss Santi Ghosh.

(*c*) and (*e*) Yes.

(*d*) Her father retired on a pension of Rs. 40 after serving as a clerk in the Collectorate. I have no information that the family exhibited criminal tendencies before it became involved in the terrorist movement.

(*f*) That is one of the factors taken into consideration.

(*g*) Midnapore Central Jail, in division II.

(*h*) Dacca Central Jail. Formerly in division III, now in division II.

(*i*), (*k*) and (*p*) Do not arise.

(*j*) and (*o*) No.

(*l*) and (*m*) The hon'ble member is referred to the answer given to (*h*) above.

(*n*) The question will be considered if necessity arises.

Mr. LALIT CHANDRA DAS: With regard to question (*d*) "Whether Miss Suniti's father belongs to a respectable *bhadralog* family in Tippera and was a ministerial officer in the Tippera Collectorate who retired on pension after a service of over twenty-five years with unblemished record", will the Hon'ble Minister be pleased to state how could the answer "I have no information that the family exhibited criminal tendencies before it became involved in the terrorist movement" come in?

The Hon'ble Khwaja Sir NAZIMUDDIN: "Unblemished record" means that there was nothing criminal in his record.

Mr. LALIT CHANDRA DAS: No question referred as to whether they had any criminal tendencies or not. The question only referred to whether Miss Suniti's father belongs to a respectable *bhadralog* family in Tippera and was a ministerial officer in the Tippera Collectorate who retired on pension after a service of over twenty-five years with unblemished record. Now, will the Hon'ble Minister be pleased to state how could the answer "I have no information that the family exhibited criminal tendencies before it became involved in the terrorist movement" come in?

The Hon'ble Khwaja Sir NAZIMUDDIN: I submit, Sir, that is not a question; that is an argument: and my explanation is that the

words there "unblemished record" called for the answer which has been given and I hope further discussion on the subject may be stopped now.

Identity Cards in Chittagong.

65. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state how many out of 21,382 identity cards issued by the authorities at Chittagong to the youths of the Chittagong district are of red colour denoting ex-detenu, how many of blue colour denoting suspect and how many of white colour denoting innocent?

(*b*) Will the Hon'ble Minister be pleased to state whether in course of the last six months there has been any change of colour and, if so, how many from red to blue or from blue to white or from white to red in the holders of those identity cards?

(*c*) Will the Hon'ble Minister be pleased to state upon whose reports these changes in the colour of those identity cards take place?

(*d*) Will the Hon'ble Minister be pleased to state to how many in the Midnapore district red cards, to how many blue cards and to how many white cards have been similarly issued and are in force?

(*e*) Will the Hon'ble Minister be pleased to state whether the Government intend to withdraw all those restrictions forthwith?

(*f*) If not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) The number of cards at present issued is as follows:—

Red	...	223
Blue	...	334
White	...	20,939
Total	...	21,496

(*b*) Number of cards changed during the last six months:—

Red to blue	...	8
Blue to white	...	10
White to red	...	2

(c) The reports relating to holder of a blue or red card is reviewed periodically or on the application of his parent or guardian. The final

orders on such reviews are passed by the Superintendent of Police of the district.

(*d*) The number of cards issued is as follows:—

Red	...	17
Blue	...	294
White	...	4,360

All cards have been withdrawn with effect from the 13th May, 1937, as an experimental measure.

(*e*) and (*f*) It is not the immediate intention of Government to terminate this system in Chittagong, as the possession of a card does not impose any restriction on the movements of the holder, but merely assists in establishing his identity promptly and without causing him inconvenience.

Unemployment among Educated Classes.

66. Mr. KAMINI KUMAR DUTTA: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether he is aware that the growing unemployment among the educated classes is a menace to the economical equilibrium in Bengal?

(*b*) If the answer to (*a*) be in the affirmative, will the Hon'ble Minister be pleased to state whether he is aware that there is a growing demand in the province for the rate of increase in the provincialisation of all the Government services to stem the tide of growing unemployment in the province?

(*c*) Will the Hon'ble Minister be pleased to state the reasons why he is not going to consider the desirability of adopting a policy of progressive provincialisation of the Calcutta Police and of the Bengal Police with a view to relieving the growing unemployment in the province?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) The subject of unemployment is in the portfolio of the Hon'ble Minister for Agriculture and Industries who is in a better position than I to give an opinion on this point. I am however aware of the seriousness of the problem of unemployment among the educated classes.

(*b*) Appointments to the provincial and subordinate services are generally made from among the permanent residents of this province.

(*c*) The assumption made in the question is not correct. In recruitment to the unarmed branches of the Police force, preference is being given to Bengalis wherever possible, if they are found to be possessed of the necessary physical and other qualifications.

Mr. KAMINI KUMAR DUTTA: In reply to question (*b*), will the Hon'ble Minister be pleased to state if there is any reason why the appointment to the provincial and the subordinate services should not be confined only to the residents of this province?

The Hon'ble Khwaja Sir NAZIMUDDIN: The obvious reply is that if a suitable candidate is not found from the residents of this province, then we go outside.

Mr. KAMINI KUMAR DUTTA: Is it the opinion of the Hon'ble Minister that there is a dearth of candidates in the province?

The Hon'ble Khwaja Sir NAZIMUDDIN: Without fear of contradiction I can say that as far as Armed Branch of the Bengal Police is concerned, we do not always get suitable men as required by the Police Department.

Rai KESHAB CHANDRA BANERJEE Bahadur: Is the Hon'ble Minister aware that in other provinces the residents of the provinces are generally appointed to all services under Government?

The Hon'ble Khwaja Sir NAZIMUDDIN: There the rule is the same generally. Bengalis are known to hold posts in other provinces.

Rai KESHAB CHANDRA BANERJEE Bahadur: Is it not a fact that Bengalis are not admitted in any service whatsoever in other provinces?

The Hon'ble Khwaja Sir NAZIMUDDIN: This is not correct, because I know personally of people holding educational posts in the Punjab and other provinces.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state his reasons for considering that suitable candidates for the Armed Branch of the Bengal Police are not available in Bengal?

The Hon'ble Khwaja Sir NAZIMUDDIN: The qualifications have been laid down and the candidates who come forward do not fulfil those qualifications.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Will the Hon'ble Minister be pleased to state whether there is any arrangement in force for periodical examination of Bengali youths in order to test their physical fitness for this service and whether Government is maintaining any statistics in respect thereof?

The Hon'ble Khwaja Sir NAZIMUDDIN: Candidates for employment in the armed force have to appear at the recruitment centres and wherever they are found to fulfil the conditions laid down for the force, preference is given to them.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister be pleased to state if the reason for not recruiting more Bengalis is that the condition of fitness laid down by a circular of the department is not fulfilled by the Bengalis?

The Hon'ble Khwaja Sir NAZIMUDDIN: There are certain standards but no rules. As a rule they do not fulfil those standards.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister be pleased to state if the standards cannot be changed to bring in more Bengalis in the armed force?

The Hon'ble Khwaja Sir NAZIMUDDIN: Does the hon'ble member want the standard to be lowered?

Mr. HAMIDUL HUQ CHOWDHURY: There is no question of lowering the standard. What I am contending for is whether the standard cannot be changed in order to fit in with the qualifications of the Bengali people?

The Hon'ble Khwaja Sir NAZIMUDDIN: So far as I know, that is the view of the Inspector-General of Police and nothing has been placed before me to come to a different conclusion.

Mr. HAMIDUL HUQ CHOWDHURY: In view of the feeling amongst us, can we expect from the Hon'ble Minister that Government should change its policy with regard to the employment of Bengalis in this service and also try to change the views of the Inspector-General of Police?

The Hon'ble Khwaja Sir NAZIMUDDIN: I may inform him as I informed the House on the last occasion also that Government have laid down that as far as the Bengal Police is concerned, none but Bengalis will be appointed. We have done that. So far as the Armed Branch is concerned, experience shows that the Bengali recruits do not fulfil the type of persons we want. Physical fitness is one of the essential things and it is not fair to ask the Inspector-General of Police to change the standard in such a manner as will make the force inefficient.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state if there is any Bengali at all in the Armed Branch of the Police?

The Hon'ble Khwaja Sir NAZIMUDDIN: There are a few.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state the percentage of these Bengalis?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state whether Bengalis do not come up to the standard on account of their physical unfitness or on account of the mental and intellectual unfitness?

The Hon'ble Khwaja Sir NAZIMUDDIN: Physical fitness is one of the things, and the condition of service by which they have to live in barracks without their families, is also a thing which does not attract Bengalis.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: May I enquire if Bengal were an independent country, would the Government have recruited persons from other countries for its Armed Police?

(No reply.)

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister be pleased to state if there are no more Bengalis of the type of those already recruited?

The Hon'ble Khwaja Sir NAZIMUDDIN: If there are and if they come forward, they will be appointed like others.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister consider the proposition of taking more Bengalis in future in the Armed Branch of the Bengal Police and take necessary steps for the purpose?

The Hon'ble Khwaja Sir NAZIMUDDIN: We have taken steps and issued circulars. Candidates have got to come: we cannot go and look for them.

Mr. HAMIDUL HUQ CHOWDHURY: Is the Hon'ble Minister aware that Mr. Hore-Belisha goes round and round the villages to get better type of men for the army?

(No reply.)

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state if it is not a fact that autonomous provinces should be self-supporting in everything including their armed forces?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is what we are trying to do. We have issued instructions that steps should be taken to recruit more Bengalis.

Mr. KADER BAKSH: Will the Hon'ble Minister be pleased to state whether physical strength is the only criterion for the consideration of the Inspector-General or are there other considerations for which a large number of people from other provinces are taken?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have already stated that it is very difficult to go on in this manner. I can only give information but I cannot argue the case.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state if in view of the questions asked, he will issue instructions that in future recruitment to the Armed Branch of the Police should be restricted as far as possible to Bengalis?

The Hon'ble Khwaja Sir NAZIMUDDIN: I am not prepared to go any further than what I have stated in my reply.

Home internee Babu Amalendu Shekhar Guha.

67. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether it is a fact that one Babu Amalendu Shekhar Guha, c/o Babu Sarada Prasanna Guha, Artist, Sadarghat, Chittagong, is a home internee, and his father petitioned to the Secretary of the Political Department through the District Magistrate of Chittagong in June last for his release and for the payment of a monthly allowance with effect from the 22nd May last, the date of his internment;

(*b*) whether it is a fact that the father of the said detenu, since that petition, was made to appear before the District Magistrate as well as the Superintendent of Police at Chittagong before whom the father absolutely refused to take any responsibility of the said detenu or even to maintain him;

(*c*) whether it is a fact that the father of the said detenu demanded a monthly allowance for him or in the alternative requested that the Government could take him wherever they pleased;

(*d*) whether it is a fact that both the internee and his father waited for two months and got no reply or no relief either from the local authorities or from the Government;

(*e*) if so, why;

(*f*) whether it is a fact that since no reply was obtained, the father of the said internee duly notified the local authorities that since expiry of September last he would not be in any way responsible for the detenu or for maintaining him;

(*g*) what steps Government have taken to meet the request of the father of the said detenu;

(*h*) whether it is a fact that the said detenu Amalendu Babu drew the attention of the Political Department to the announcement of the Hon'ble Minister in charge of Law and Order and to the High Court Judgment in Miss Renuka Sen Gupta's case and also to section 20 of the Bengal Criminal Law Amendment Act;

(*i*) whether it is a fact that the detenu Amalendu Babu mentioned above, prayed to be released and to be paid due maintenance money since the order of internment or in the alternative, requested that he be removed elsewhere, as otherwise there will be no way for his maintenance;

(*j*) why no maintenance money has been yet sanctioned;

(*k*) whether the Government are aware that because of refusing his prayers, he has no other alternative but to break the internment order and go to jail;

(*l*) what steps, if any, Government intend to take with respect to this detenu; and

(*m*) if any steps have been taken since his petitions, what those steps or others are?

The Hon'ble Khwaja Sir NAZIMUDDIN: The movements of Amalendu Shekhar Guha were restrained by the District Magistrate of Chittagong by an order under section 2A of the Bengal Criminal Law Amendment Act, 1930. This section does not provide that any form of maintenance allowance should be given and no allowance was given in this case. The orders have since been withdrawn by the District Magistrate.

Persons under Detention.

68. Mr. MOAZZEMALI CHAUDHURY: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) the number of detenus now confined in different jails in Bengal;

(*b*) the minimum and maximum period of their detention;

(*c*) the number of externees under the Bengal Criminal Law Amendment Act; and

(*d*) in how many provinces they have been externed and the period of their externment, in each particular case?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) This varies from day to day because the most common reason for a detenu being in jail is medical examination or treatment. The number on the 10th January last was forty-six.

(*b*) No minimum or maximum have been prescribed.

(*c*) Thirty-six.

(*d*) The orders in force do not prescribe where, outside Bengal, the individual may live nor is the period for which they will remain in force defined.

Prohibition.

69. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Forests and Excise Department be pleased to state—

(*a*) whether the Government have adopted or intend to adopt in the near future measures to enforce prohibition in certain districts of Bengal;

(*b*) whether it is a fact that the Chief Minister of Bengal promised to select certain districts and try prohibition in the near future; if so, do the Government intend to do any work now in that line;

(*c*) what percentage of the population in Bengal has taken to drinking wine; and

(*d*) whether when percentage of drinkers in Bengal is yet low, the Government would consider the advisability of enforcing total prohibition except in case where wine is used for medicinal purposes and in case of Europeans who take wine as their usual drink?

MINISTER in charge of the FORESTS and EXCISE DEPARTMENT (the Hon'ble Mr. Prasanna Deb Raikut): (*a*) and (*b*) Government have decided to enforce prohibition as an experimental measure in the district of Noakhali with effect from the 1st April, 1938. The prohibition will for the present be confined to alcoholic beverages.

(*c*) No statistics are available.

(*d*) Government's eventual action in this matter must depend on the result of experiments in this and other provinces.

Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister be pleased to state what was the reason for selecting Noakhali of all the districts in Bengal: is it because the revenue from excise there is small or there are other facilities for starting it?

The Hon'ble Mr. PRASANNA DEB RAIKUT: It seemed to be a convenient place for starting the experiment.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if Noakhali was selected because of the smallness of its size or smallness of its revenue?

The Hon'ble Mr. PRASANNA DEB RAIKUT: It has a very small boundary and is convenient to control.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister be pleased to state if Noakhali was selected because the people of Noakhali are not addicted to a vice like this?

(No reply.)

Rai KESHAB CHANDRA BANERJEE Bahadur: Will the Hon'ble Minister be pleased to state whether the Chief Minister gave an assurance that the experiment will be started in three districts?

The Hon'ble Mr. PRASANNA DEB RAIKUT: He has selected Noakhali and it has been decided to start experiment at one place present.

Rai KESHAB CHANDRA BANERJEE Bahadur: Will the Hon'b Minister be pleased to state if it is not a fact that this experiment w be tried in other districts also?

The Hon'ble Mr. PRASANNA DEB RAIKUT: It is going to tried at one place first.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state if it is in the contemplation of the Government to extend the experiment to other parts of the province?

The Hon'ble Mr. PRASANNA DEB RAIKUT: It depends on the result of the present experiment.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state if the prohibition will be of alcoholic drinks only or of all exciseable articles?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Only alcoholic drinks.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state if it is in the contemplation of the Government to extend it to other exciseable drugs?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Not at present.

Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister be pleased to state the period when Government think that the experiment will be finished?

The Hon'ble Mr. PRASANNA DEB RAIKUT: It depends on the result.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state the reason for Government's preference for alcoholic beverages?

(No reply.)

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state how many liquor shops there are in the district of Noakhali?

The Hon'ble Mr. PRASANNA DEB RAIKUT: I ask for notice.

70. Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister in charge of the Forests and Excise Department be pleased to state whether the Government intend to take steps as an experimental measure for the wholesale and effective prohibition and prevention of the use of intoxicating liquor and drugs in some selected area of the province, especially of East Bengal?

The Hon'ble Mr. PRASANNA DEB RAIKUT: The hon'ble member is referred to the answer given to question No. 69 above.

Repayment of Agricultural Loan.

71. Khan Bahadur ATAUR RAHMAN: (*a*) Is the Hon'ble Minister in charge of the Agriculture and Industries Department aware that the price of paddy is abnormally low this year?

(*b*) Will the Hon'ble Minister please state whether the *raiyats* in the districts of Murshidabad, Birbhum and Burdwan affected by the recent famine, are being pressed to repay their agricultural loan?

(*c*) If the answer to (*b*) be in the affirmative, will the Hon'ble Minister please state if he is considering the desirability of remitting the loans or suspending realisation at present?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Minister in charge of the Agriculture and Industries Department): (*a*) The prices of paddy in previous years are not available for comparison. But taking the price of rice, it appears that prices in 1937 were in the neighbourhood of 1934 prices though in the intervening period the prices were slightly higher.

(*b*) They are being asked to repay their loans to the best of their ability, as the crop has been good. No undue pressure is being exercised.

(*c*) The question does not arise.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state whether it is optional for the people of that quarter to pay their debt or not: will he please make a definite statement on the point?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is never optional. This is the first time that I hear of optional payment of debt. Debt is always payable.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, may I draw your attention to the fallacy that the Hon'ble Minister in charge of Land Revenue is dealing with the price of paddy instead of the Hon'ble Minister in charge of Agriculture?

(No reply.)

Increase in revenue in certain places.

72. Mr. MUKHLESUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state what was the increase in the land revenue from Government *khas mahals* in the Dooars of the district of Jalpaiguri after the last settlement in that area?

(*b*) What was the percentage of increase?

(*c*) Are rents being realised at this increased rate from 1935, when the country was groaning under all-round depression?

(*d*) Is it a fact that some *jotdars* in Maynaguri *tahasil* were arrested and detained in Maynaguri *tahasil kutchari* for their inability to pay rent owing to this heavy increment during this period of depression?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) Rs. 2,69,380-4-3.

(*b*) 43·49 per cent.

(*c*) The new rents took effect from the 1st April, 1935.

(*d*) No.

Mr. KADER BAKSH: Will the Hon'ble Minister be pleased to state if 49 per cent. is not an exorbitant rate of increase?

Mr. PRESIDENT: That is a matter of opinion.

Mr. KADER BAKSH: It is not found anywhere in other parts of India. Is the Hon'ble Minister aware that such high rate of increase is not found anywhere except in the *khas mahal* areas?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is very difficult to answer off-hand. This much I can tell the hon'ble member that the increase was quite justified on facts: very likely it was done on the ground that the rate of rent was abnormally low in this area.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Hon'ble Minister aware that this abnormal increase has been the cause of unpopularity of the Settlement Department?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No doubt about it: it is always so.

Mr. KADER BAKSH: Is the Hon'ble Minister aware that this increase has not only caused irritation amongst the people in the district but also amongst the *khas mahal* people in the neighbouring districts, because the rate of increase in those areas has not been so high?

Mr. PRESIDENT: Please put your question, don't use arguments.

Mr. KADER BAKSH: All right, Sir. Will the Hon'ble Minister in charge be pleased to say whether the same high rate is prevalent in other *khas mahals* in the neighbouring districts?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The rate is not at all high in this case.

Mr. PRESIDENT: His question is whether it is higher than the rate prevalent in the neighbouring *khas mahals*.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The rate of rent is not higher but may be equal to the rate in the other *khas mahals*.

Mr. KADER BAKSH: Will the Hon'ble Minister be pleased to state how he can declare here that this rate was very low and in comparison with the low rate of rent it was not considered high? What was the standard that he applied in this particular case?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Will the hon'ble member please repeat his question slowly? I could not follow him.

Mr. KADER BAKSH: What was the standard applied in making such a high increase in this case?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: There has always been a standard for fixing fair rent, and Government applied only the usual standard.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Was it due to re-classification of lands?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I ask for notice.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Was there not another settlement fifteen or twenty years before this?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I ask for notice.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state whether there has been any abnormal rise in the number of rent suits due to this abnormal increase in rent?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I ask for notice.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Are the Government aware that on account of this sort of enhancement of rent, the people have come to look upon Government not as an ideal landlord but as a most iniquitous landlord?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is a matter of opinion.

Veterinary Hospital for Bogra.

73. Khan Bahadur Maulvi MOHAMMAD IBRAHIM: (*a*) Is the Hon'ble Minister in charge of the Revenue Department aware that there is not a single veterinary hospital in the Bogra district *khas mahal* for the treatment of the domestic animals like cows, bullocks, horses and buffaloes belonging to nearly a lakh of people and of immense utility to the poor tenants of that *khas mahal*?

(*b*) If so, is the Hon'ble Minister considering—

(*i*) the necessity of the early establishment of a veterinary hospital; and

(*ii*) the utility of maintaining several oxen of good breed?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) Yes.

(*b*) (*i*) The matter is under the consideration of the Agriculture and Industries Department along with the question of improving the facilities for treatment of cattle.

(*ii*) Yes.

Ferry ghats in Bogra.

74. Khan Bahadur Maulvi MOHAMMAD IBRAHIM: (*a*) Is the Hon'ble Minister in charge of the Revenue Department aware that the ferry *ghats* under the Bogra district *khas mahal* are mostly given in *ijara* to up-country Bihari people?

(*b*) Is the Hon'ble Minister also aware that they never care to hang up the list of tolls on the *ghats* and always exact very high and unauthorised rates from the ignorant passengers?

(*c*) If so, is the Hon'ble Minister contemplating to take steps to stop the injustice and the evil practice?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) Out of the five small ferries in the *khas mahal*, four have been settled with Biharis, who were the highest bidders. There was no local bidder in these four cases.

(*b*) No.

(*c*) Does not arise.

Recruitment for Co-operative Inspectorship.

75. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state whether the

candidates recently recruited for Co-operative Inspectorship have been informed that one-fifth of their number will be discharged after the period of training on the result of a competitive examination?

(*b*) If the answer to (*a*) be in the affirmative, will the Hon'ble Minister be pleased to state why four-fifths of the number, now taken, was not taken in and everyone given a chance of passing a qualifying test after the period of training, as is the case in most of the public services?

(*c*) If a competitive examination was considered essential, why was it not taken just after selection and before training as is the case with the Indian Civil Service and the Bengal Civil Service?

(*d*) Is the Hon'ble Minister considering the desirability of taking in the one-fifth who stand lowest in the competitive examination as auditors and selecting fewer candidates than the number actually required for auditorship?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) Yes.

(*b*) For the sake of greater efficiency, more attention is given to instruction while under training if the examination to follow the training course is competitive.

(*c*) As provided in the original scheme for training, it was considered desirable that the competitive examination should be held with reference to the special course of instructions given upon co-operative principles and practice, and not merely upon general knowledge.

(*d*) No.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Could not the examination be held after the training without taking a large number of candidates and insisting on a high standard?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I am sorry, it is difficult to agree as that depends upon various factors. It has been done on the basis of a decision of the Government with regard to the training scheme.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Hon'ble Minister aware that there are other departments as anxious to take in efficient men as this department and which only holds a test examination after the period of training, such as the Income-tax Department and other departments?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: May be so, Sir; I am not aware.

Mr. HUMAYUN KABIR: Are we to understand that the Hon'ble Minister has intelligently anticipated the scheme which has been suggested by the Government of India?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I would thank the hon'ble member; but I am afraid I do not know the details of the scheme to which my hon'ble friend refers.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Could not the suggestion which I have made in (*d*) have solved both the question of efficiency after a competitive test and as provision of these people?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I am sorry, Sir, I could not agree to this suggestion.

NON-OFFICIAL RESOLUTION.

Admission of Bengalees for Military Training.

Mr. PRESIDENT: A requisition has been received by me signed by twenty-five members of this House that resolution No. 6, standing in the name of Rai Keshab Chandra Banerjee Bahadur, should be given precedence over all other resolutions under section 100 of the Rules and Standing Orders. The Hon'ble Minister has agreed to this course. Therefore, resolution No. 6 will have precedence.

Rai Keshab Chandra Banerjee Bahadur will, accordingly, move his resolution.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, I beg to move that this Council is of opinion that the Government of India be moved by the Government of Bengal to admit Bengalees for military training so as to form a permanent unit of the Indian Army.

Sir, on the 26th of February, 1934, I had the privilege of moving a similar resolution which was carried unanimously, every group in the Council giving its unstinted support to it. Government also did not oppose the resolution and the Hon'ble Mr. Reid, the then Home Member, promised to forward the report of the discussion to the proper quarter on behalf of the Local Government.

The demand for military training for the people of Bengal is a genuine and legitimate one which was first made by a cut motion on the 5th August, 1929, if I remember aright and which was carried by 68 votes to 33, Government opposing compulsory military training for our boys in schools and colleges on financial and other grounds. In 1934, I had the good fortune of carrying the whole House with me and I hope that on this occasion also my resolution will receive the same support.

Sir, the situation in Bengal has perceptibly changed during the last four years. What we then considered to be a mere necessity has now become a matter of paramount importance to the Bengalees as a race. No body could ever dream during the Great War that Bengal was exposed to the risk of an invasion from outside. The present situation in Europe and particularly in the Far East has revealed, to an eminent degree, the dangers ahead, and no body can say when India would be involved in a world conflagration.

Sir, if we are to believe the story that Japan has her eyes on Bengal,—and it cannot be said that the apprehension is altogether baseless having regard to the attitude of Japan towards Britain,—then I think the time has come for Government to bestir themselves and give the Bengalees of all ranks military training, the demand for which has now become more insistent and pressing than ever.

Sir, nearly four years have elapsed since I drew the attention of the Government to the urgent need for raising a permanent military unit in Bengal to form a part of the Indian Army. In reiterating this demand, I hope the Hon'ble the Home Minister, who is happily one of us and not a foreigner, would realise the gravity of the situation and forward a summary of the debate to the Army Department of the Government of India with a definite recommendation to take immediate steps in this direction in consultation with the British Government as nothing seems to have been done during the last four years and our cry has been one in the wilderness.

I hope I am voicing the unanimous opinion of this House when I say that it is a stigma on the fair name of Bengal that the Bengalees are not admitted to military training and that without such training we, as a race, cannot shoulder real responsibilities in regard to the administration of our country. You, Sir, as an experienced parliamentarian, are well aware of the truth of such an assertion which to my mind is unassailable. It is almost a truism that is universally accepted. If I mistake not, it was you, Sir, who as a member of the Indian Legislative Assembly very rightly expressed the sentiments of young Bengal in supporting the resolution of Mr. Jadav for recruitment of soldiers from Madras. You advocated Bengal's cause and pointed out the injustice done to the province in not admitting the children of the soil to military service. Let us hope, Sir, that under your guidance the great wrong so far perpetrated on Bengal, will be righted at no distant date.

Recently two companies of urban infantry have been raised and they held their camp in Calcutta from 24th December, 1937 to 8th January, 1938. The camp was a great success. The companies consist of men of position and enlightenment. It is understood that nearly 800 applications were received for enlistment and about 400 applications had to be rejected as the number sanctioned for enrolment was limited.

It may be mentioned in this connection that the recruits all belong to towns near about Calcutta. If the limit imposed could be widened a little so as to admit a larger number of recruits, there would be no dearth of applicants from *mufussil* for enlistment.

From the keenness and enthusiasm evinced by the elderly people, well-settled in life, in the matter of military training, it can safely be presumed that if recruitment is thrown open to all classes and castes and a regular unit is permanently raised in Bengal, the response will be very satisfactory, and I am confident that the Bengalee soldier will prove second to none in his capacity for active service if proper training is given.

Of late a military training class has been opened by Calcutta University in which students interested in such training are given facilities to join. My resolution urges the necessity for providing such facilities for the people of Bengal as a whole and it is hoped that those who are really anxious to make military training a career for themselves will take full advantage of the opportunities offered. This will to a certain extent solve the problem of unemployment in Bengal which has become so acute nowadays.

Sir, I am not here to give a dissertation on the growth and development of the Indian Army but would recommend a perusal of the book entitled "The Army in India and its Evolution" which deals with the Evolution of the Army in India from its first beginnings, 1600—1708 A.D. and its reorganisation after the War. It has been compiled officially and is issued with the authority of the Government of India. This book contains a narrative of the creation and gradual expansion and equipment of the fighting forces in India. The earliest Force which can be seriously regarded as the embryo of the Army in India originated in Bombay. Gradually Madras and the Punjab came to be associated with the Indian Army Scheme.

The troops located in Madras and Bengal were a negligible quantity. In Bengal the Forces were limited to an ensign and 30 European soldiers —the equivalent to the traditional corporal's guard of the British Empire. In 1683 the Bombay garrison was supplemented by the enrolment of two companies of Rajputs. Each company consisted of 100 men commanded by their own Rajput Officers; and this small Force may be regarded as the first beginnings of the Indian Army.

While the other provinces such as Bombay, Madras and the Punjab have their share in the defence of India, the claims of Bengal have been studiously and systematically ignored. The grave injustice done to Bengal was, however, formally recognised by the formation of a Double Company in 1916 which ultimately came to be known as the 49th Bengalee Regiment. The announcement made by Lord Carmichael at the Dacca Durbar in August of that year regarding the decision of the Government to form such a unit was hailed with universal delight,

but this was followed by keen disappointment when after the War the Regiment was disbanded.

Sir, we often hear it said that the Bengalees are physically unfit to bear arms, that lack of initiative and discipline is responsible for their undoing. A reference to the Skeen Committee's report will perhaps repay perusal. In this report will be found an interesting analysis of the character of our boys from the military point of view. They have pointed out the defects found in their character. These defects are want of "General aptitude for dealing with and controlling men" a lack of "the power of leadership", of "the spirit of initiative, sportsmanlike character, love of discipline, and above all, lack of a strong and genuine military spirit such as is essential to training and command of troops". Sir, there may be defects in our boys as there are defects in the boys of other countries. You cannot find a perfect type of humanity anywhere in the world. It is a question of degree. Every man must have his defects. A critical study of the Skeen Committee's report will reveal the fact that these deficiencies are due not to anything inherently wrong in the character of the Indian boys, but to lack of opportunities which have been denied to them in the matter of defence of their motherland. That the present system of education is primarily responsible for the defects in our national character will perhaps be universally admitted. The report further goes on to say, "In England the educational system has been definitely adapted, in part at any rate, to the production of efficient leaders of men" The difference in the system of education obtaining in England and in India is not unknown to our rulers as will be evident from the utterances of Lord Macaulay who on one occasion said that the educational policy of the Government has been to train up a class of men to serve as a recruiting field for the supply of meek, docile and obedient subordinates to the British administrators of India. I omit the adjectives used to the words "British administrators." This is what a shrewd English politician said.

Sir, India is on the verge of a great international crisis, and if such a crisis arises, Bengalees must play their part in the defence of their own hearths and homes. Their present physical inaptitude can be easily overcome by proper military drill and exercises. During pre-British times the Bengalees were in military service. Under the Moghul Emperors as well as under the Hindu Rajahs in the past, Bengalees knew how to wield the sword and the shield. This is an indisputable historical fact and as such cannot be challenged. There are amongst the rural people able-bodied men who, I feel sure, will prove their mettle if they get a chance to enter military service.

Sir, Provincial Autonomy presupposes capacity for self-defence and the reforms would be a mere sham and autonomy a mockery if the defence of the country were not left to the children of the soil. Bengal

with a population of five crores is undoubtedly capable of putting into the field fifty lakhs of able-bodied young men properly trained and equipped with modern armaments, and what an asset such an Army would be to the Government in the defence of the Indian Empire!

Khan Sahib ABDUL HAMID CHOWDHURY: In lending my whole-hearted support to the resolution so ably moved and lucidly explained by my friend the Rai Bahadur, I beg to submit that on a subject like this on which, I presume, we are all agreed, a lengthy speech is not at all required. It is really a matter for regret that Bengal has so long been totally ignored in the matter of recruitment to military service. That Bengalees are not unfit, that Bengalees are quite capable of shouldering this responsibility, has been fully proved during the time of the Great War by the Bengalee Regiment. I am in full agreement with the Rai Bahadur that our autonomy is really a farce if it has not a Force behind it. It is not only in the interest of the people at large but also is in the interest of the Government that a country should be given a proper military training so that at the time of emergency it can take upon itself the execution of that great responsibility and can render great help to the Government. The number of willing candidates will not be negligible, if Bengalis are admitted to military service. With these few words, Sir, I fully support the resolution moved by the Rai Bahadur.

Maulana MUHAMMAD AKRUM KHAN addressed the House in Bengali. The following is the English translation of his speech:—

Mr. President, Sir, I have every sympathy for the resolution moved by Rai Keshab Chandra Banarjee Bahadur. But I am not in a position to fully support the arguments advanced by him in favour of the resolution. In the first place, he said with regard to our military training that rumours were heard about some foreign power, such as Japan, contemplating an attack on Bengal and hence we should be prepared for that. I am of opinion that the responsibility for giving the power of adequately defending a country, which may fall a victim either to the attack of Rama or to that of Ravana, does not in the least lie with us. Hence, it may be either Rama or Ravana who will make the attack. The matter will entirely rest between Rama and Ravana. We need not be anxious about that. But from the standpoint of humanity resolutions should, I think, be moved in this Council in respect of the mentality that has been wrongly and unjustly ascribed to the Bengalees in the past ages. That the Bengalees are physically unfit cannot be an inference correctly made either from the bodily condition of the Rai Bahadur or from that of the Khan Sahib who seconded this resolution. We have not to go very far in order to prove that the Bengalees are quite fit to fight. If anybody wants to have proof of the

manner in which they conducted themselves on the battle-field, he may look up Hunter's history. The history compiled by the English authors fully records the fight given throughout the province by the people of a country which is to-day regarded as the hot-bed of malaria and whose inhabitants are said to suffer from enlarged spleens. We, therefore, clearly see that the Bengalees have got enough strength for fighting. But unfortunately those who hold the destiny of the Bengalees in the clenched fists of their hands, do not allow that strength to develop or to have a free play through normal channels. They are wrongfully and unjustly keeping that strength in check. It is for this reason that the resolution should be unanimously accepted by us as a protest against it.

Mr. W. B. C. LAIDLAW: Sir, to my mind a sense of discipline and *esprit-de-corps* is essential for nation-building and I am in favour of extending facilities of military service to Bengalees. I had a little practical experience of this. Recently the 5th Bengal Presidency Urban Battalion has been formed with the object of giving an opportunity to Bengalees to taste the joys and to reap the benefits accruing from military training. A few of the employees in my office joined this unit and they applied for leave to go into camp. They returned a fortnight later looking better, happier, very much smarter and in very good health, I should say in fact they looked every inch a soldier. To my mind, to say that the Bengalees are unfitted for military service is just nonsense. I heartily support the motion.

Adjournment for prayer.

The Council then adjourned for 15 minutes for prayer.

After adjournment.

Mr. RANAJIT PAL CHAUDHURY: Sir, I am more or less actuated by the same spirit as my hon'ble friend Rai Keshab Chandra Banerjee Bahadur. I had also put in a resolution which runs—

"This Council is of opinion that effective steps may forthwith be taken so that physical drill may be made compulsory in all primary schools and military drill in all secondary schools and study of military science and military training be made compulsory for all college students, irrespective of age, caste, creed and colour throughout the whole province of Bengal and providing that no student will be allowed to sit for his or her final examination without furnishing a certificate of having undergone such training."

Sir, this resolution which I gave notice of, would not have interfered with the policy of the War Lords at London or here and was more or-

less of a practical nature and at the same time involved less expenditure and laid the foundation for a future army. Sir, in this connection I would like to bring to the notice of the House the public utterances of Sir Lancelot Graham, the Governor of Sind, at one end of the country and that of our Chief Secretary at this end about coming events which cannot but fill our minds with dread and despair. War clouds are undoubtedly thickening quite fast in the East: the conditions are no less dismal in the West. Here we must bear in mind what our ex-Commander-in-Chief Sir Phillip Chetwoode said in the course of a speech at the East Indian Association in London, that if Italy gained ground in Spain, the Mediterranean would be blockaded and there would be difficulty in sending military help from Europe in case of need. Such being the state of affairs at present both in the East and the West, when we consider our state of unpreparedness we cannot but cast the blame on Government for their attitude of utter indifference and selfishness in the matter. They have given some little training, physical and military, to their kith and kin, even to the Anglo-Indians and Indian Christians but have sadly neglected us especially in this respect. The result of such a policy has been that people of Bengal and Assam and even of Burma, through which a proposed invasion is threatened to be launched in the near future, will be in an extremely bad way. On account of the unwarlike and defenceless position of the people in general, we are sure to be swamped and overrun miserably by barbaric invaders and our position then will be just like the Britons in ancient Britain. When the Romans abandoned their empire, they gave the Britons good roads, good bridges and good beneficient institutions of peaceful life. But what they forgot perhaps selfishly and intentionally, was that they ignored to give them training in military science. What disaster overtook them when the Romans left them to take care of themselves, is known to all readers of history.

We know we cannot make up our deficiency in one or two years but if Providence puts off the evil day for at least five years more and our Government tries to make up the deficiency by forthwith putting into practice this recommendation put forward in the resolution, our young men will at least be able to take up their part in the defence of their hearth and home and will not be mere on-lookers of their own extinction.

When Germany was demilitarised and was deprived of the use of firearms, the young men and women of Germany, boys and girls continued their physical drill and military training theoretically, and out of this output there has risen again a strong, efficient and scientifically equipped army able to withstand any enemy.

With these few words, Sir, I support the resolution of my hon'ble friend.

Mr. HUMAYUN KABIR: I move that the question be now put.

Mr. MOAZZEMALI CHAUDHURI addressed the House in Bengali. The following is the English translation of his speech:—

Mr. President, Sir, I shall not take long to speak in support of the speech of my friend, Rai Keshab Chandra Banerjee Bahadur. For, there are several other more urgent questions waiting for discussion in to-day's sitting. I shall, therefore, be very brief. Whenever the question of military training for the Bengalees has been raised, the first and foremost objection taken to it has been that the Bengalees are, in point of physical strength, extremely backward and poor. In going to discuss this matter we at once find that it is the British Government that is responsible for this weakness of Bengalees. If we review the history prior to these two centuries of British rule, it comes to our notice that before the English set their foot on this land, the Bengalees had girded up their loins for and succeeded in defending their motherland against external attacks, such as those of the Mogs, the Maratha bandits, the Portuguese pirates, with an army drawn entirely from the people of Bengal. Far from improving under the British rule, we to-day search in vain for the types of Bengalee heroes, who shed lustre over the pages of our past history. Who does not know of the heroic exploits of the valient Pratapaditya of Bengal? Who does not know of Isha Khan, one of the twelve greatest landholders of Bengal? Who does not know of the heroic deeds of Chand Ray and Kedar Ray? To-day, as we remember these heroes of Bengal, the idea strikes us that our present condition would not have grown so deplorable, had all our country's powers not been crippled by British rule. I do not wish to take any more time to-day. I want to say only this, that, there was a time when the Bengalees defended their own country by dint of their own might, and even if the need arises to-day and proper training is given to them, they can again acquire that strength. It is for this reason that I say and demand that adequate opportunity for this may be given to us. Perhaps, nobody in this country need be told to-day of the heroic exploits of Mirmadan and Mohanlal. I will declare it openly that had not that display of valour by them on the field of Plassey in 1757 taken a different turn owing to the conspiracy of Mirzafar, the history of Bengal and for the matter of that the history of India would have been written differently and there would have been no necessity to-day for putting forward this demand for having the opportunity of military training—this is what I firmly believe. To-day we find in this House that a resolution has been moved on which there is no difference of opinion at all—a resolution which involves no question of Hindus or Moslems, the League or the Praja Party, the Congress or the European Party. For, Maulana Akram Khan, the Leader of the

League Party in this House, and Mr. Laidlaw on behalf of the European Party have supported this resolution. I hope everybody will heartily support it and see that we may carry it into practice.

Mr. KAMINI KUMAR DUTTA: Sir, it is really an irony of fate that such a resolution has to be moved. It is the birthright of all races to be able to bear arms for the defence of their hearth and home and for the protection of their honour. But it is really a matter of disgrace that there is a ban upon the Bengalee race to bear arms for the protection of their own country and for the protection of their own honour. What we are asking for is nothing but the removal of a ban against our own birthright. I need not repeat the facts which have been stated by the other hon'ble members of this House, but one thing seems to me to be quite patent that there is a general policy underlying this principle of ban. The policy appears to be this, that those races are placed under the ban amongst whom there is a spread of education and there is an awakening of political consciousness. Indeed we find this principle applied not only in Bengal but also in other provinces of India. In the United Provinces the Brahmins were thought to be quite fit for recruitment in the army. There are also other races in other provinces who were thought fit for recruitment in the army, but as soon as there was an awakening of political consciousness and spread of education amongst them, they became fit to be unfitted. Their neighbours who have not imbibed the spirit of consciousness, were thought fit to be recruited to the army. What is the policy? The policy underlying this matter is quite patent: it requires no further comment, but at the same time it cannot be denied that it is a right which we must have. The present international position requires that the whole policy must be revised. There is a cloud of war in the horizon. We cannot be left to the mercy of the marauders. Now to deny to us this right is most cruel. At the same time Bengal's contribution towards the maintenance of the army is not small. It is, I think, not less than 30 crores of rupees. When we do contribute, we have a right to ask for partnership in the expenditure.

Now, Sir, I need not refer to the old history as to our fitness for military service: I need not repeat the history of the conquest of Ceylon or the history of Harshabardhan or of the Pal Kings of Bengal who indeed unfurled their banner of conquest in others parts of India. I need not go into the old history even of the time of Serajudoulla when there was a full battalion of Bengalee soldiers under the leadership of a valiant Bengalee General who fought for the country, and perhaps the history of Bengal would have been different but for the treachery of others. So we need not rake up old history.

As to the argument advanced against the Bengalees that they are physically unfit, I am not ready to accept that statement to be true. It

one would look to our young generation—to our Muslim and Hindu youths, it is merely a travesty of truth to say that they are weaker, inferior and physically unfit. Even admitting their lack of physical strength, modern warfare is not a rivalry of physical strength. It requires intelligence and knowledge of mechanization and, applying those tests the Bengalee race would be the most suitable and best fitted for military service in India, if not in the whole world. If we look to our neighbours, the pigmy-sized Japanese, I think, you will find they are a terror not only to the Chinese but to any big-sized nation of the world. Recent history shows that it is not the big-sized stalwarts that are wanted in the modern warfare, but it is the intelligence and knowledge of mechanization which will be taken into consideration. So from whatever standpoint it is considered, looking to the past history it would justify our claim, looking to the admitted fact that Bengalees are certainly intelligent and with the knowledge of mechanization they would be quite equal to any race of the world. For the sake of justice, for the sake of safety of the nation, for the sake of saving this country from further humiliation, I think it is a rightful claim which we have every right to press and that claim should be allowed.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, in supporting the resolution which has been moved by my hon'ble friend I would only say a few words. It is now a well accepted principle that the principal claim and the only claim to independence is the ability to defend one's own land and that has been brought home most emphatically during the last Abyssinian and Italian war. Smaller nations of the world have now realised, and especially the weakest of them, that the only basis for the claim to remain independent and to rule their own country is to be able to defend themselves, and having realised that, they are doing their utmost to make themselves fit to fight against the aggression of stronger people. History is being repeated in the war that is now going on between Japan and China. The question of military training also brings in the question of discipline. So far as our own people are concerned, there is no denying the fact that there is not much discipline amongst us. Our weakness, our inability and our failure to carry into effect many of our policies and aims are entirely due to our indiscipline. Military training brings in discipline and physical fitness. The question that is now being agitated against the claim of Bengal, namely, that they are physically unfit, is one which need not be examined to find out its falsity. Sir Nazimuddin has fallen into the same error—that it is the fitness only of the people which guides him in selecting the persons for the military police. I would only say that to make people fit, it is necessary that they should be given the advantage of this training, advantage of making themselves a more well-disciplined nation. A nation which cannot supply its own requirements, does not deserve to

exist. If we claim to govern ourselves, we must qualify ourselves to justify the claim and learn to defend ourselves. Further, it is more an economic question as it is the question of discipline of the nation and the question of defending the people that underlies the demand for military training. History of this agitation shows that the British people have been trying openly to throw on our face the stigma that it is on account of some inherent defects in us that Bengal cannot supply her own needs in this respect and cannot rule her own land.

Bengal, as has already been said by my hon'ble friend Mr. Kamini Kumar Dutta, supplied in the past her military and political needs from her own land. The Nawabs of Bengal used to recruit their military men in Bengal. Again, when the British came, they selected Bengal as the recruiting ground. A large number of soldiers for the army was recruited in Bengal during the Sepoy Mutiny of 1857 and they were known as Red or Bengal Army. After that on account of political consciousness, the recruiting ground was shifted from there to the Maharatta country and from there it was again shifted to the Punjab. There again the political consciousness of the people became a menace to the discipline of the army and it was then shifted to the hills of the Himalayas, and now the largest number of recruits to the Indian Army are taken from the Gurkhas.

Khan Bahadur ATAUR RAHMAN: I move that the question be now put.

Mr. HAMIDUL HUQ CHOUDHURY: They supply the needs of the Indian Army under the Government of India. The question of Indianisation of the army is very important and deserves serious consideration. I would give this question no less an important place than the question of primary education, because if we are unfit to earn our own livelihood because of our physical unfitness, the question of physical and intellectual fitness becomes more important than the question of primary education.

Recently in Europe, perhaps you are aware Norway and other countries have been taking steps in this direction. It is the duty of the Government of India to come forward and help us both financially and in other ways. The provincial Government should also take steps and train Bengalees for the military service and educate them in their own institution. They should employ Bengalees in semi-military services, such as police and military police. Norway has adopted the policy of physical training of the entire school-going youths of the country. From Norway it passed on to Italy and thus every nation to-day is trying to train its own men physically and in discipline. Every Italian child is a soldier in embryo. Germany took it from Italy and on account of the intensive training she is giving to her people,

she has risen from a bankrupt nation to be recognised as one of the most powerful nations in Europe now. Following them England last year introduced a Bill in Parliament on physical fitness after a long agitation. While every nation is going ahead, shall we still remain where we were? Is it not time that we should assert our claims? We cannot get political sovereignty unless we have our own soldiers—our own army. Shall we not be able to raise them for the protection of our own land? We are going to attain the status of a politically sovereign state in the community of nations. If not to-day, to-morrow or the day after, India will form into a real Federation of such states and we must prepare ourselves for that. The claim of sovereignty lies in her capacity to defend. Either here or abroad, we shall carry better respects for our rights as citizens. It is necessary to pull up our own people who are physically unfit, as described by the Hon'ble Minister, for military services and for police and armed police. It is doubly necessary for our own Government and the Government of India to see that we get adequate finance and opportunity to train our people to build their body and bring in that amount of sense of discipline which can only be brought by a training in the field, so that we may be able to grow as a nation by itself. With these words I support the motion.

Mr. BANKIM CHANDRA DATTA: Mr. President, Sir, I know time is pressing on us and I shall therefore try to be as brief as possible, because the matter has been discussed here practically threadbare, and all shades of opinion, I think, are unanimous that we ought to do something for this purpose. Sir, to my mind it appears that no education is complete without a physical and a military training. We have only to turn our eyes to the free countries to get an answer. A question may be asked: "Are we free?" We know we are not, but at the same time we are assured that we are having the fullest autonomy in Bengal as also in the other provinces. May I pertinently ask, Sir, "Is autonomy complete without an effective unit to defend our hearth and home?" The answer is clear "No, it is not". I am really grateful to Mr. Laidlaw for making sympathetic utterances on the floor of this House, which show that the European Group in this House are equally sympathetic and fully alive to the present position, and that they will co-operate with us to the fullest extent. I think, Sir, I voice the feelings of every group and every individual member in this House that mere pious resolutions would not be sufficient. And I think it is up to the Central Government to take this matter up at once and give this resolution a concrete form in the shape of a Bill as early as possible. Sir, I find there are some murmurs which I am unable to follow, but I must say, Sir, that the day of pious resolution is gone and the time for action has come.

With these words, Sir, I wholeheartedly support the resolution before the House.

Mr. RANAJIT PAL CHOUDHURY: I move that the question be now put.

Mr. E. C. ORMOND: Mr. President, Sir, for what I am going to say I would ask the House to excuse the want of preparation and the want of thought which should be given to a subject of such importance; and which I should like to have given to it before standing up and taking up the time of the House in making this speech. But, Sir, this resolution has been put forward before other resolutions, and we have not had very long to know that it was coming up so soon. The matter is so important that I, like others, who feel strongly on the subject, feel that it is impossible not to say something on it.

Now, Sir, at the outset I am pleased to be able to stand here and say that I have the honour of claiming relationship with the late Colonel Archie Pugh, who was a respected citizen of Calcutta, a partner in the firm of Pugh & Company, who was, I think, solely responsible for the idea, and for carrying out the idea, of embodying the regiment which came to be known as the Bengal Light Horse in 1917. Now, Sir, many years have passed since then, and to-day, Sir, the times of the present are truly critical. This country, India, has a long coast-line with many ports, and it must be a matter of fears and doubts whether any of those ports are properly equipped according to modern standards of war to protect themselves against invasion. The air ports of the country, Sir, I would say, are also in the same predicament. We have read recently that certain steps have been taken towards putting the Karachi Air Port on to some defensive basis, but, Sir, it must be a matter of extreme anxiety to anybody who lives in this country to think of the coast-lines, of the ports, and of the air ports of this country in their present condition in any apprehension of war. The country, Sir, is fortunate in its land frontier, in having a unique range of mountains on the north. But, Sir, it has also a unique war-like tribe and many tribes of people who also live on the frontier, and the result is that it is quite impossible to do without the human element of an armed force for defence in addition to the natural elements even on that side. Now, Sir, these features of the problem have mattered little hitherto, but times have now changed. The international situation has changed, and India in her foreign relationships stands on a totally different footing to-day to what she has done hitherto. That being so, it is obvious the moment it is mentioned, that it becomes an absolutely urgent, vital necessity that the defences of this country should be put on an entirely new basis. (Hear, hear!) Now, Sir, as soon as that is said, it is clear that the necessity also follows that the sons of Bengal should take their part in the defence of this country. That, Sir, is the matter from the aspect of external relationship, but, Sir, from the provincial point of view also it is obviously a matter of advantage to this province that her young men should go into the Army and should have the opportunity

of going into the Army. Now, Sir, how far they will be enabled to be embodied in the Army immediately as it now exists, is naturally for the Army authorities primarily to say. I feel that it is the duty of any one discussing this matter to mention one point and that is that any young man of Bengal going into the Indian Army would, it may be hoped and it may be confidently expected, make it a point of honour that he would take on a new life of discipline such as he may never have known before, and Sir, in that respect we trust the young men of Bengal would inevitably, from the sense of honour and discipline of their new calling, be imbued with loyalty to India as a whole, and the King-Emperor, who is the Head of the Army in India. It would obviously only serve the objects of their intention and they would only fulfil half the object of the career open to them, and they would only exist half as men if they were in any sence living in a provincial spirit, and, I am sure, all the members of this House are confident that the young men of Bengal, when they take on themselves a military career for life, will fill their lungs and body and their spirits with a wider loyalty to India as a whole and will not be content to be bound by a lesser discipline or any lesser loyalty. The present Army in India has long traditions of loyalty to their motherland and long traditions of loyalty to the King-Emperor, and, Sir, it is a mere platitude, which I beg to say will not lose in importance by repetition, to say that the administration of justice and the administration of the Army in India are the two vital matters of Government in this country. They are the two vital matters of Government which have allowed some generations (but not so many generations) of young men and women of Bengal to be born peaceably, to work peaceably, to eat and sleep peaceably, to marry and be given in marriage peaceably, and to die in peace. And, Sir, without a loyal, efficient, and co-operating Army, when I say co-operating, I mean co-operating with itself for the benefit of the country as a whole,—without such an Army and without efficient administration of justice, this country will go back to the conditions that it was in not so long ago and back to the condition in which China is to-day, and, Sir, I say with all the sincerity that I am capable of, that I trust that none of us will live to see this country in the condition, such as China is in to-day. And, Sir, whether it goes on now in the smooth path which it has hitherto been able to follow or whether it becomes another China, depends upon the defences of the country and the administration of its Army. Now, Sir, that is the matter in theory, but there are certain practical aspects of this question also. We have all agreed that we would like to see young men of Bengal in the Army, but, Sir, is there any bar at the present day to Bengalee youths being admitted to the Indian Army?" I know of no bar—of no legal bar at least. But I am fully aware that there are very great difficulties which have come to be treated as insuperable. The regiments which now exist are composed of different companies,

different platoons, and different nationalities or at any rate of different races, if not of different nationalities. But they have no Bengalee companies in them, and, therefore, it will mean a force in a particular regiment forming a new company. And, Sir, I would submit that there is nothing insuperable in that. But, Sir, before there can be any large number of Bengalee young men in the Indian Army, there must be young men coming forward to go into the Army, and I, for one, would like to see young men of Bengal actually coming forward, putting their names down, and asking to be allowed to enlist in the Indian Army.

I should like you, Sir, to have some concrete assurance from their parents that they welcome their sons going into the Army. Now, Sir, I am assuming that that is the fact, and in supporting this motion we on this side of the House are assuming it to be a fact that there are quite a sufficiently good number of young men of Bengal who are prepared now to go into the Army if an opportunity is given and if their parents will not object. Now, Sir, that is a practical matter.

I would suggest, Sir, that it may not be for this House but it may be for the members of this House to take steps to get a list of young men of Bengal who are prepared to go into the Army and when that list has been obtained, as they should be able to get it in a very short space of time, then, Sir, we will be even in a stronger position to press this claim. With regard to the practical means in which this resolution is to be given effect to, of course it is for the Government of India to say whether the mover of the resolution has fully explained that in the wording he has given to the resolution. For the present I understand there is a territorial force of young men of Bengal and we welcome this debate and this resolution so that we may draw attention to the existing position of things and to the existence of the territorial force and I would respectfully suggest that if this resolution has the effect of giving encouragement to the recruitment of that territorial force, that is the first step which may be taken towards attaining the object of this resolution. I trust that no one in this House or outside in Bengal will be disheartened if they were to be told by the Government of India that it is impossible to form a Bengalee regiment of the regular Army. But our answer to that should be—let us fill the recruitment to the territorial force which is now in existence and show by merit that it is impossible for anyone to say that Bengalees should not be in the Army.

Mr. HUMAYUN KABIR: I had no desire of speaking on this motion, for I thought this to be a motion on which practically all sections of this House were agreed and I was at one time hoping that this resolution would be carried unanimously after the single speech of the proposer of the motion. But one or two speeches which have been delivered lately induce my making one or two remarks. I am glad that my friend Mr. Ormond has raised the question of legal bar.

In a way it is true that there is no legal bar, but there are practical bars; it is impossible to deny that the Indian Army, as it is organised to-day, is organised on the basis of castes, on the basis of provincial units. So long as there are no provincial units given to Bengal, it is not possible for a person of Bengal, even if he wants to enlist in the Army, to be absorbed in one of the units. I submit it is not possible for a Bengalee to become a member of the Jat Regiment, or the Rajput, Gurkha or Nepali regiments, because these are organised on caste lines. These are the difficulties which I want to impress on Government and which I should like Government to keep in mind when communicating the wishes of this House to the Government of India.

Then there is another question, I mean the terrotorial force. There again, there is a misapprehension in the minds of some members. There is no regular territorial force in the country of the type to which people are accustomed in other countries. There is the University Training Corps and there is a small territorial force to which there is attached only a small officers' section. With regard to the University Training Corps, which might have served as a nucleus for building up an Army in Bengal, there is an initial disadvantage. There are men only for the rank and file and it is only after long and strenuous work that they have a chance of getting an Officer's rank, whereas the custom in all other countries is that university men are trained for Officer's rank.

I do not want to take up more time of this House and I shall not repeat what has been said about the virtues of military training and discipline or its implication on the problem of unemployment by opening the Army as a source of employment to our young men. It has been suggested, however, that there should be first an attempt to ascertain whether there is a demand for employment in the Army before this question is taken up. I submit that is entirely a wrong procedure. In every country, inducements are first offered and after that, recruitment is made. Then why should there be this differential treatment in our case. When in other provinces people are attracted to the army by the offer of inducements, why in the case of Bengal thousands of young men must first make an application so to speak and when these applications are submitted to Government, then and then alone Government will take up the question of organising an army——

Mr. E. C. ORMOND: On a point of personal explanation, Sir, I did not desire to say that and I hope not to be misunderstood to say that I intended it to be a condition before this resolution should be forwarded that all these things should be done. I only intended that the resolution should be forwarded and that those things should be done as soon as possible in order to strengthen the hands of this House.

Mr. HUMAYUN KABIR: I am thankful to Mr. Ormond for his disclaimer, but I was not thinking of him alone when I referred to that. There is a general opinion of that sort and I was thinking of that when I made that remark. It is the duty of Government, particularly of to-day, when it is based upon popular support, when it is our Government, to press this pressing demand of the people before the Government of India and I might conclude by making one more remark. The question of the military capacity of Bengalees or otherwise is a question on which many remarks have been made to-day and Mr. Hamidul Huq Chowdhury has pointed out that only about eighty years ago it was the Bengal Regiment which was responsible for a great deal of trouble to the British authorities. They knew how to fight. I take a certain amount of pride in the fact that one of my great grandfathers, Haji Mohsinuddin, better known as Dudu Mia, was one of the men responsible for fighting the British to the last in the water-logged areas of Eastern Bengal. This is a matter of only fifty or sixty years and this shows that the martial spirit has not yet died out. Given the proper opportunities, it will develop again and I am sure the Government which is in power to-day, will create such conditions that not only will Bengalees in future be found fit for employment in the Army, but it will be found possible to organise, not merely a unit in the Army, but whole regiments composed of men from Bengal.

Khan Bahadur M. SHAMSUZZHOHA: Sir, towards the fag end of the discussion, I do not want to inflict a speech but I want to impress on the Government that now that we are going to have a Federated State of India it would look odd if Bengalees cannot furnish or have an Army unit of their own. So from the standpoint of our own defence, it is only desirable that we, the Bengalees, should have a unit of our own and all sorts of federation and provincial autonomy will end in smoke if at the time of an emergency we are not able to defend ourselves. It has also been suggested that Bengalee are not likely to come in large numbers to form a unit but so far as the present condition of the country is concerned, when thousands of graduates are being sent out every year and when there is so much of unemployment, if proper training is given to them and also physical training in schools and colleges, the apprehension that there would be paucity of candidates for recruitment in the military service will disappear. So, it is up to us to make a specific demand on the Government at the Centre that there may be a unit exclusively for Bengal. Many of my friends have alluded to the fact that Bengalees formed the major part of the Army of Nawab Serajuddaulla. As I come from Nadia, from my own experience as Public Prosecutor, I can say that I have seen men with good physique in that part of the province which stretches from Murshidabad down to Pangsa along the banks of the Padma. These persons with sound and robust physique, it is my

impression, are the descendants of the disbanded soldiery of Nawab Serajuddaulla. These people having no occupation at all, have nothing to fall back upon except to swell the number of dacoits. It should be the policy of Government to so open the military occupation to these people that the formation of a military unit would be a venture in the right direction. As regards Bengal's contribution to the Centre for the maintenance of the Army, it is not a very mean sum out of the 51 crores of rupees for military expenditure. It is right and proper therefore that Bengal should find her due recognition and her due place in the Army of India.

(Adjournment.)

The Council then adjourned for 15 minutes for prayer.

(*After adjournment.*)

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I would only explain the constitutional position with regard to this resolution and what Government propose to do. The hon'ble members are perhaps aware of section 91 of the Rules and Standing Orders wherein it is laid down that the Governor may at any time before the resolution is moved, disallow any resolution or any part of a resolution on the ground that it cannot be moved without detriment to the public interest or that it relates to a matter which is not primarily the concern of the Provincial Government and if he does so, the resolution or part of the resolution shall not be placed on the list of business or if it has been placed on the list of business, it shall not be moved. So, it will be apparent that as far as this resolution is concerned, it comes under the second category, namely, it is not primarily the concern of the Provincial Government. The hon'ble members of this House are well aware that the Army is one of the subjects reserved for the Central Government and that the Government of Bengal have no say whatsoever in this matter, and therefore the policy which the Government of Bengal are going to pursue in future with regard to resolutions or motions which are not primarily the concern of Provincial Government is either, if this rule is retained, that they will disallow it or wherever they think that it is merely a recommendation of the House or the House want to forward their wishes to some central body without expressing any opinion of their own or without making any comment whatsoever, they will simply forward the proceedings of this House and the speeches that have been made, to the relevant body concerned who are the authority to deal with it. I hope the hon'ble members will realise that it is not possible for Government to either defend or oppose or even express an opinion on matters of which they have got neither any information nor

they are in a position to obtain information nor are they competent in any way to deal with the question.

This, it may be argued, is a simple question, but there may be others which may be of a more complicated nature where any expression of opinion even will be inadvisable. Therefore, as a uniform policy of Government, what they propose to do is that as far as the Government are concerned, they will not express any opinion on the merits of the question. As far as the party who are supporting the Government are concerned, they will have the right of free voting, and as far as Government are concerned they will agree to forward the proceedings to the relevant body without any modification whatsoever.

Mr. LALIT CHANDRA DAS: Sir, the Hon'ble Home Minister has pointed out section 91 of the Rules and Standing Orders of the Bengal Legislative Council. So far as that rule is concerned, the resolution does not fall within its mischief, because, Sir, all that the resolution says is—

Mr. PRESIDENT: Mr. Das, will you please go on with the resolution?

Mr. LALIT CHANDRA DAS: Sir, defence of India is undoubtedly a reserved subject. It is within the special responsibility of the Governor-General. Although it is a primary right and duty of the children of the soil to defend their hearths and homes, still the Britishers have made the Army their own. They look upon India as their own property which they are to defend with such mercenary troop as they may from time to time recruit from different parts of India, particularly from amongst the hillmen of India. In this recruitment however we generally find that the Bengalees are taboo. Now, Sir, what would have been the position had the Government of India instead of being a bureaucratic government, manned and dominated by foreigners, would have been a national government? In this question of recruitment there would not have been the slightest difficulty. Mr. Ormond pointed out that there is no bar in the law preventing the Bengalee from being trained and admitted into the Indian Army. Nevertheless, whether there is no bar or whether there is no law against the Bengalee, the practice is there: the Bengalees are taboo, the Bengalees are not recruited in the Army. Sir, if in England any Britisher would go to the Head of the Army Department, can we for a moment conceive that he would be refused a position in the Army except on the question of physical unfitness? But here however sturdy a Bengalee may be, however courageous, however intelligent he may be, the practice is a bar and he will not be admitted in the Army

at all. So far as the question of physical fitness is concerned, Sir, it has been repeated by all the speakers in this House that this is an unmerited slur upon the Bengalees. If, as a matter of fact, one looks to our fields of sports or even where the pilgrims assemble or when floods or other natural calamities overtake the country—if anybody looks at how volunteers work there, how courageously and with what endurance, and how intelligently, I think as a matter of fact there is nobody who can say that they are physically unfit or in any way inferior in courage to anybody. Then there is another point which has not been touched upon by any speaker. I venture to refer to the political prisoners, the detenus and the internees. Their worst enemies will not deny that they are physically fit and that they are a very courageous lot. Now, if we look at the question of physical fitness or even from the point of view of courage or intelligence or endurance, the Bengalees will not be found a bit inferior to any other race inhabiting India.

Sir, in modern warfare it is the courage, it is the skill, it is the intelligence that would matter. The life of the bravest soldier in the world is at the mercy of a single bullet. The lives of the sturdiest soldiers are within the danger of a bomb thrown from any aeroplane. In these days where warfare is carried on by all scientific methods, the most intelligent, the most courageous, the most skilful, the most brave should be taken and I submit that if this is made the practice, Bengalees will be found the most fit.

Sir, there is another side of the question that I should like to mention. It would be said that the Bengalees would be unique in the Indian Army charged with the duty of carrying out Imperial designs of an Imperial Government. But sooner or later—I hope sooner rather than later—the Government of India will be national. In the defence of our country we cannot sit with folded hands and wait till the Government becomes national. Sir, the world situation has changed considerably. It revolves round Rome-Berlin-Tokio axis. The mighty British power in the land is no longer considered invincible. The Abyssinians—a sturdy race—have fallen a victim to Fascism. As a matter of fact Spain is run by anti-Comintern volunteers: China is in the firm grip of the Japanese. In these circumstances, a British General and also a Secretary in the Bengal Government have warned that Bengal or India need not feel safe. At such a time, if in world conflagration, all Europeans would leave the shores of India, should we be put to the awkward position of piteously petitioning them to stay back? Rather it is better we be forewarned and forearmed.

Sir, there is another aspect of the question to which I want to refer. The revenue of the Government of India is 130 crores of rupees. Out of that 62 per cent. of that revenue is fixed for the Army—a non-votable item. Towards that 130 crores of rupees over 30 crores of

rupees are contributed by the Government of Bengal. As a matter of fact it will be seen that of the provinces in India, it is the Punjab which is reaping the greatest benefit. How the Punjab has become very rich? Because Punjab is the fruitful place of recruits of the British military officers. There is not a single home in the Punjab where a Punjabee is not recruited. There is no poverty there, there is no unemployment. If, as a matter of fact, the Bengalees were to become the participators in this 62 per cent. of non-votable money of the Indian Army, the grave question, the question of unemployment amongst the Bengalees would partially be solved and with it also one anxiety of the Government would be considerably removed—the anxiety of how to provide the internees and detenus and the political prisoners.

With these words, Sir, I am happy to be able to support the resolution so ably moved by Rai Keshab Chandra Banerjee Bahadur.

Mr. PRESIDENT: I think there was no opposition to this resolution; so it is not necessary to say anything in reply.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, with your permission I wish to submit one or two points in exercise of my right of reply. At the outset I should like to thank the members of this House for their kind support to the resolution. I am particularly grateful to the European members, Mr. Laidlaw and Mr. Ormond, for the words of sympathy with which they have welcomed the motion, because it was from that quarter that I expected opposition. When I moved an identical resolution in the old Council four years ago, the Honble Sir Robert Reid on behalf of the Government expressed his sympathy, and promised to forward a summary of the proceedings to the Army Department of the Government of India. Unfortunately the Central Government did not take any steps to give effect to the resolution: that is my only excuse for bringing forward the resolution again before the House. There is one other point to which I would like to refer. The Home Minister in his speech has referred to section 91 of the Bengal Legislative Council Rules and Standing Orders which according to him, precludes the possibility of making a definite recommendation to the Government of India on the subject-matter of the resolution; but, Sir, when a similar resolution was moved four years ago, no objection on that score was raised on behalf of the Government.

Mr. PRESIDENT: The Constitution was then different; now you have a different Government of India Act.

Rai KESHAB CHANDRA BANERJEE Bahadur: The context of section 91 was in existence then, but I remember distinctly——

Mr. PRESIDENT: The difficulty is that you now have different items which comes under the Provincial Government as distinct from others which come under the Federal Government, that is the difference. The rule is the same.

Rai KESHAB CHANDRA BANERJEE Bahadur: I think, Sir, that is a technical difficulty which the Hon'ble Minister can easily get over if he so desires.

Mr. PRESIDENT: He has promised to send the whole debate to the Central Government.

Rai KESHAB CHANDRA BANERJEE Bahadur: If the whole debate is forwarded to the Central Government without definite recommendation from the Local Government, the resolution will carry little weight.

Mr. PRESIDENT: He said that the whole debate would be sent.

Rai KESHAB CHANDRA BANERJEE Bahadur: Even then, Sir, as I have already said, without any recommendation from the Local Government the resolution is not likely to be favourably considered. It is after all a matter in which Bengal is primarily interested and the Hon'ble Minister should not hesitate to send the debate with the local Government's recommendation pointing out its urgency.

Mr. PRESIDENT: The question is that this Council is of opinion that the Government of India be moved by the Government of Bengal to admit Bengalees for military training so as to form a permanent unit of the Indian Army.

The motion was put and agreed to.

Mr. PRESIDENT: I take it that it is the desire of the House now to adjourn its sitting as the Hon'ble Home Minister has agreed to fix another day for the discussion of resolutions. On that day the agreement made between the Reserve Bank of India and the Governor of Bengal, the proposal to appoint a Committee of Privileges and then the non-official resolutions will be taken up.

Adjournment.

The Council then adjourned till 3-30 p.m. on Wednesday, the 2nd February, 1938.

Members absent.

The following members were absent from the meeting held on the 28th January, 1938:—

(1) Esmail, Khwaja Mahammad.

(2) Khan, Khan Bahadur Mahammad Asaf

(3) Momin, Begum Hamida.

(4) Mookerji, Dr. Radha Kumud.

B. G. Press—1938-39—1408A—900.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 2nd February, 1938, at 3-30 p.m. being the sixth day of the First Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Present:

Mr. President (The Hon'ble Mr. Satyendra Chandra Mitra) was in the Chair.

QUESTIONS AND ANSWERS

Properties forfeited during Non-co-operation Movement.

76. Mr. NARENDRA CHANDRA DATTA: (*a*) (*i*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if any decision has been arrived at in connection with the returning of properties to their respective owners which were forfeited to Government during the non-co-operation movement?

(*ii*) If so, what is the decision?

(*iii*) If not, when will the decision be made?

(*b*) (*i*) Does the Hon'ble Minister contemplate the desirability of releasing these forfeited properties?

(*ii*) If so, within what time?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) (*i*) No.

(*ii*) Does not arise

(*iii*) The question is not under consideration.

(*b*) (*i*) No.

(*ii*) Does not arise.

Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister be pleased to state with reference to (*a*) (*ii*) if the answer "does not arise" has been given because it is a very unimportant matter?

The Hon'ble Khwaja Sir NAZIMUDDIN: Certainly not.

Mr. NARESH NATH MUKHERJI: Does the Government desire to take any steps in the matter?

The Hon'ble Khwaja Sir NAZIMUDDIN: I would refer the hon'ble member to answer (*a*) (*iii*).

Deputy Magistrate of Jalpaiguri.

77. Mr. MUKHLESWAR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether there is any Musalman Deputy Magistrate in Jalpaiguri at present?

(*b*) If the answer to (*a*) be in the negative, is the Hon'ble Minister considering the desirability of placing one Musalman Deputy Magistrate there?

(*c*) Is the Hon'ble Minister aware that in the permanently settled area of the Jalpaiguri district there are two Circle Officers, one at Sadar and another at Debiganj circles, and none of them is a Musalman?

(*d*) Is it a fact that these areas are inhabited mainly by Musalmans?

(*e*) Is the Hon'ble Minister considering the desirability of placing one Musalman officer in charge of one of these circles?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) No, not on the date this answer was drafted.

(*b*) One Musalman Deputy Magistrate was recently posted there, but he applied for medical leave before joining.

(*c*) Neither of the Circle Officers at Sadar and Debiganj is a Musalman, but the officer in the adjacent circle of Maynaguri is a Musalman.

(*d*) There are 137,000 Musalmans out of a total population of 184,000 in these two circles, and 72,000 out of a total population of 312,000 in Maynaguri circle.

(*e*) The posting of Circle Officers is made by Divisional Commissioners.

Mr. KADER BAKSH: Will the Government communicate their views to the Divisional Commissioner for considering the appointment of at least one Muslim in one of his Circles?

The Hon'ble Khwaja Sir NAZIMUDDIN: The demand for Muslim officers is very large, and the number of officers is limited. Government will try their best to distribute them as fairly and justly as possible, and I believe the Divisional Commissioner also will bear in mind what has been stated here.

Unemployment Portfolio.

78. Mr. NARENDRA CHANDRA DATTA (on behalf of Mr. Kamini Kumar Dutta): Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state what steps have been taken to implement the assurances given on the 15th of September, 1937, on which my resolution No. 1 of the Bengal Legislative Council was withdrawn, to combat unemployment and whether any portfolio has been opened or any committee has been formed to devise ways and means for the purpose?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): The subject of unemployment is, as I have previously explained to this House, already included in my portfolio. There is therefore no question of opening any new portfolio.

No committee has been formed, but I would be glad to hear the views of the House in that connection when my proposals for the appointment of a Special Officer to deal with unemployment questions come up for discussion in connection with the next budget.

Mr. NARENDRA CHANDRA DATTA: Does the Hon'ble Minister remember in this connection that the budget grants will not be discussed in this House?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I quite realise that budget grants will not be discussed in this House, but I think there is a resolution in regard to unemployment scheme coming up probably to-day, and on that occasion I may have an opportunity of saying something in the matter.

Rai KESHAB CHANDRA BANERJEE Bahadur: Having regard to the fact that there is no chance of the resolution on unemployment of which notice has been given by me coming up to-day, will the Hon'ble Minister be pleased to state how he can effectively deal with this question in this House?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: If that resolution does not come up to-day, then I can say that I will take the first opportunity when that offers itself in this House to explain my unemployment scheme.

Unemployment Relief Scheme.

79. Rai SURENDRA NARAYAN SINHA Bahadur: (*a*) Has the attention of the Hon'ble Minister in charge of the Agriculture and Industries Department been drawn to the issue of the *Ananda Bazar Patrika* of the 18th August, 1937, in which Mr. Satish Chandra Mitter has published a letter in his capacity as the Director of Industries, Bengal, in which he has practically admitted the failure of the Unemployment Relief Scheme?

(*b*) Was that communication by Mr. Mitter to the Press made with the permission of the Government?

(*c*) If the answer to question (*a*) be in the affirmative, is the Hon'ble employees of the Industries Department attempted to procure some issue of the *Ananda Bazar Patrika*, purported to show that some employees of the Industries Department attempted to procure some letters by way of contradiction of the statements which were made in the issue of the *Ananda Bazar Patrika* of the 25th July last?

(*d*) Will the Hon'ble Minister please state under what circumstances the Director of Industries got the permission of the Government for writing to the Press in this connection?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: (*a*) Yes, I saw the letter of the Director of Industries published in the *Ananda Bazar Patrika* of the 18th August last, but the Director did not admit the failure of the unemployment scheme therein. He contradicted the misstatements that appeared in the columns of the *Ananda Bazar Patrika* of the 25th July.

(*b*) Yes.

(*c*) Yes and I looked into the matter. It is not correct that some employees of the Industries Department attempted to procure some letters by way of contradiction of statements appearing in the *Ananda Bazar Patrika* of the 25th July last.

(*d*) The Director was permitted to write to the Press as it was necessary to contradict the incorrect statements that appeared in the *Ananda Bazar Patrika.*

Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister be pleased to state whether the Cutlery Department has been suspended or stopped altogether,—I mean the department for knife making, etc.?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: So far as I am aware, it has not been suspended.

Salaries of the auditors of Co-operative Banks.

80. Khan Bahadur Maulvi MOHAMMAD IBRAHIM: (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state whether it is a fact that the salaries of auditors are paid from the audit fees only collected from the Co-operative Banks?

(*b*) If so, will the Hon'ble Minister be pleased to state the amount of the balance which is still at hand after meeting the salaries of the auditors?

(*c*) Does the balance amount to 10 to 12 lakhs of rupees?

(*d*) If so, is the Hon'ble Minister considering the desirability of abolishing altogether the present payment of audit fees by Co-operative Banks in these days of great economic crisis or at least reducing the present rate?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) Yes, except in the case of anti-malaria and infant societies.

(*b*) and (*c*) The balance at the end of the year ending June, 1936, was Rs. 11,42,202.

(*d*) No. The audit staff has recently been augmented for securing efficiency of work and the accumulated balance will be spent on account of the additional staff.

Mr. HAMIDUL HUQ CHOWDHURY: With reference to answer (*d*) is the increase in the establishment likely to absorb entirely the extra that is saved from the audit fees?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: It is very difficult to say, but in point of fact in the last two years we have already had a deficit.

Khan Bahadur Maulvi MOHAMMAD IBRAHIM (in Bengali): How is this surplus money kept?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Along with the rest of the fund.

Khan Bahadur Maulvi MOHAMMAD IBRAHIM (in Bengali): Do the Government pay any interest on that money?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I must ask for notice.

Khan Bahadur Maulvi MOHAMMAD IBRAHIM (in Bengali): Would not this large amount bring in a considerable sum by way of interest?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I will let you know in detail afterwards.

Advance of loans to agriculturists.

81. Mr. RANAJIT PAL CHOUDHURY: (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state whether it is the immediate contemplation of the Hon'ble Minister to advance loans to help the agriculturists to repay their creditors?

(*b*) Will the Hon'ble Minister be pleased to state the names of the members of the boards under the Agricultural Debtors' Act that were convicted and the total number of such convictions?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: (*a*) The possibility of helping agricultural debtors to some extent in the way suggested through the medium of Land Mortgage Banks is under examination: at present it is premature to make any definite statement upon the feasibility of the proposal, except that no such scheme could be considered unless the lending agency is given facilities for recovery of outstanding dues in case of default by means of the summary procedure under the Public Demands Recovery Act.

(*b*) As far as the Government are aware, only one Maulvi Abbas Ali, Chairman of the Hogla Debt Settlement Board in Mymensingh, has been convicted in a case.

Mr. RANAJIT PAL CHOUDHURY: With reference to answer (*b*) under what section was Maulvi Abbas Ali convicted?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I must ask for notice.

Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister be pleased to state whether he is aware of the principle of banking that the whole amount of the Bank's money should not be put in the same basket?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: It is very difficult to risk an opinion, Sir.

Rai KESHAB CHANDRA BANERJEE Bahadur: Will the Hon'ble Minister be pleased to state whether his attention has been drawn

to some cases of malpractice resorted to by some of the members of the Debt Settlement Boards?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: No, Sir.

Appointments by District Judge of Chittagong.

82. Mr. NUR AHAMED: (*a*) Will the Hon'ble Minister in charge of the Judicial and Legislative Departments be pleased to state with reference to his answer given on the 21st September, 1937, to my question No. 92, what is the percentage laid down in the circular referred to by him in answer to (*e*) of the said question for the employment of Moslems?

(*b*) Will the Hon'ble Minister be pleased to lay a copy of that circular on the table for the information of the members of this House?

(*c*) How many officers have been promoted to higher grades during the regime of the present District Judge of Chittagong and of such officers how many are Moslems and how many non-Moslems?

(*d*) How many officers have been degraded or dismissed by the said District Judge and of these how many are Moslems and how many non-Moslems?

MINISTER in charge of the JUDICIAL and LEGISLATIVE DEPARTMENTS (the Hon'ble Nawab Musharruf Hossain, Khan Bahadur): (*a*) and (*b*) 33⅓rd per cent. A copy of the Government circular Nos. 5159-63A., dated the 30th September, 1918, is laid on the Library table.

(*c*) Out of sixteen promotions six went to Moslems and ten to non-Moslems. One Moslem was promoted out of turn to increase the proportion of Moslem representation in the higher ranks.

(*d*) Total number dismissed.	Moslem.	Non-Moslem.
3	..	3 (including 1 probationer discharged for inefficiency).
Total number degraded.		
3	2	1
Total number of officers punished by reduction of pay.		
4	3	1

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Hon'ble Minister aware that Muslim education has made great strides in Bengal, and in view of this fact, is he thinking of reconsidering the proportion of Muslim appointments?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: The matter is still under consideration.

Mr. NUR AHAMED: Will the Hon'ble Minister be pleased to state whether he has received any memorial, bringing to his notice the injustice done to some of these degraded officers?

(The hon'ble member went on asking another question.)

Mr. PRESIDENT: You are to put your question first and then take your seat, and wait for an answer; and after that question has been answered, then only can you put another question. Will you please repeat your question now?

Mr. NUR AHAMED: My question is this: Will the Hon'ble Minister be pleased to state if he has received any representation from some of these degraded officers?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Yes.

Mr. NUR AHAMED: Will the Hon'ble Minister be pleased to state whether he has taken any action on the representation?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Action has already been taken, Sir.

Law officers in the High Court.

83. Khan Bahadur ATAUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Judicial and Legislative Departments be pleased to lay on the table a list of the total number of law officers maintained by the Government in the High Court, with the remuneration drawn by each of the officers both as pay and as fees?

(*b*) How many of these officers are Musalmans?

(*c*) Is it a fact that both the offices of the Junior Government Pleader in the High Court and the Deputy Legal Remembrancer were held by Muslim lawyers some time back and is it also a fact that both these are now held by Hindu lawyers?

(*d*) Is it the policy of the Government to slowly remove the Moslem element from these offices in the High Court and in the *mufassil* Courts?

(*e*) If not, does the Hon'ble Minister contemplate the desirability that in making future appointments or in making permanent arrangement in any such offices, Musalmans will be appointed in such proportion and on such principle in order that they may have their legitimate share of these offices very soon?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: (*a*) A list showing the various law officers and their retainers is laid on the table. They are paid fees according to the rules in the Legal Remembrancer's Manual.

(*b*) None.

(*c*) These posts have at times in the past been held by Muslim lawyers.

(*d*) No.

(*e*) This matter has already engaged my attention, I am fully aware of the desirability of appointing Muslims to some of these posts when vacancies occur, if suitable men are available.

Statement referred in the answer to question No. 83.

LIST OF OFFICERS MAINTAINED BY GOVERNMENT IN THE HIGH COURT, CALCUTTA.

		Rs.
1.	Advocate-General	2,000
2.	Standing Counsel	1,000
3.	Government Counsel	500
4.	Solicitor to the Province of Bengal	3,500
5.	Deputy Legal Remembrancer ..	1,200—100/2—1,600
6.	Senior Government Pleader	300
7.	Assistant Government Pleader	150
8.	Junior Public Prosecutor ..	600—600—650—50—1,200

Mr. KADER BAKSH: In the statement referred to in answer to question No. 83, will the Hon'ble Minister be pleased to state why fees have not been shown, and if any fees are at all paid to these officers besides their pay? If so, will the Hon'ble Minister be pleased to state the amount of fees paid to each of these officers?

Mr. PRESIDENT: Will you please repeat your question?

Mr. KADER BAKSH: All right, Sir. In the list the Hon'ble Minister has given in his answer regarding the pay of eight of the officers of the Hon'ble High Court, only "pay" has been shown, but the question

also includes the remuneration drawn by each of the officers both as pay and as fees. Now, Sir, fees have not been shown. If any fees had been paid to these officers, will the Hon'ble Minister be pleased to state the amount of fees paid to each of these officers?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Fees vary from year to year and month to month; if there is more work, there will be more fees. So, it is not possible to always give such figures.

Mr. KADER BAKSH: Will the Hon'ble Minister be pleased to supply us with one year's average?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: I want notice, but I am afraid that it will not be possible.

Mr. RANAJIT PAL CHOUDHURY: Have they no scheduled scale of fees?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Yes, there are. The Legal Remembrancer has got his own Manual, and I think that Manual propounds the scale of fees.

Mr. RANAJIT PAL CHOUDHURY: Could not they have been mentioned in this list?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: I refer you to the Manual, and if you read that Manual you will be able to help yourself.

Platforms in certain Railway Stations.

84. Rai SURENDRA NARAYAN SINHA Bahadur: (*a*) Is the Hon'ble Minister in charge of the Communications and Works Department aware that there was a proposal of making some platforms in railway stations such as Khagraghat Road, Azimganj City and other stations in B. A. K. Line, East Indian Railway?

(*b*) If the answer to (*a*) be in the affirmative, will the Hon'ble Minister be pleased to state what is the progress of those platforms (with names of railway stations) towards their commencement or completion?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Kasimbazar): (*a*) Yes.

(*b*) The provision of raised platforms at Khagraghat Road, Azimganj City and other stations will be considered, when funds permit, in their appropriate sequence according to the priority list under preparation by the Railway Administration on the basis of passenger statistics and other relevant factors.

Mr. RANAJIT PAL CHOUDHURY: Will the Government of Bengal forward their recommendation to the proper authorities for this purpose?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar: After what I have already stated, it will not be possible for this Government to send any recommendation as that would be of no use.

Copyists in the Registration Office.

85. Mr. LATAFAT HOSSAIN (on behalf of Mr. Krishna Chandra Roy Chowdhury): Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) the reasons why the resolution of Maulvi Tamizuddin Khan which was carried in Council on the 4th August, 1928, has not yet been given effect to;

(*b*) whether the said resolution was carried by 63 votes against 17;

(*c*) whether Government have the intention to give effect to the said resolution in the near future;

(*d*) whether it is a fact that since the date of this resolution, the fees concerned for copying have been increased;

(*e*) if so, by what amount;

(*f*) what the amount of copying fees was in the Calcutta Registry and Sub-Registry offices in 1936; and

(*g*) what the respective amount was in 1926?

MINISTER in charge of the EDUCATION DEPARTMENT (the Hon'ble Mr. A. K. Fazlul Huq): (*a*) Government decided not to take any action on the resolution on account of the financial loss entailed by the proposals therein.

(*b*) Yes.

(*c*) and (*d*) No.

(*e*) Does not arise.

(*f*) Rs. 7,382.

(*g*) Rs. 3,232.

Rent realised by zemindars and others.

86. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Mr. Naziruddin Ahmad): Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

(*a*) the total amount of rent assumed to have been annually realised by the *zemindars, talukdars* and other proprietors of estates from the actual tenants on the basis of which the Permanent Settlement of Bengal was made under Regulation I of 1793;

(*b*) the amount thereof which was fixed—

(*i*) as Government revenue,

(*ii*) as the share of the landlord, and

(*iii*) the proportion which (*i*) and (*ii*) respectively bore to the said total collection; and

(*c*) the total area of—

(*i*) the province as it stood at the time, and

(*ii*) the lands permanently settled therein?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) and (*b*) The assessment of the Decennial Settlement was 2·68 crores (exclusive of *sayer*) representing 9/10ths to 10/11ths of what was then supposed to be actual assets of the *zemindars*.

(*c*) Bengal, as it was known at that time, does not correspond in area with the presidency as it is constituted at present, nor was any survey made of the lands that were settled permanently at the time.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hin'ble Minister be pleased to state the present ratio between the land revenue and the assets of the *zemindars*?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I ask for notice.

Permanent Settlement.

87. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN (on behalf of Mr. Naziruddin Ahmad): (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state whether the area of the province has since the Permanent Settlement of Bengal been altered—

(*i*) by territorial redistribution or adjustments, if any; and

(*ii*) if so, how and to what extent?

(*b*) What is the area of land within the permanently settled estates which has been acquired since the Permanent Settlement under the Land Acquisition Act?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) (*i*) Yes.

(*ii*) Statistics are not available.

(*b*) The information can only be supplied by referring to every individual Land Acquisition Case record since 1824 which it is not proposed to do in view of the expense and labour involved.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Could not the Hon'ble Minister obtain the figures from Register B-2 which shows all necessary figures?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Government do not think so.

Khan Bahadur ATAUR RAHMAN: What is the object of maintaining Register B-2?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not think that question arises out of this.

Use of Jute in Handloom Industry.

88. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state—

(*a*) whether the Government will take early steps to develop the use of jute in the handloom industry—if not, what stands in the way;

(*b*) whether it is the intention of the Government to disseminate in all jute-growing districts of the province general market informations regarding jute—if not, what stands in the way;

(*c*) whether the Government will restrict the cultivation of jute in all the districts of the province, regard being had to the stock of raw jute in and outside India and to the world demand for jute with a view to bringing the best price of jute to the tillers of the soil;

(*d*) if so, what forms the restrictions will take;

(*e*) if not, what are the grounds of refusal;

(*f*) whether regard being had to the fact that the cultivators are forced to sell at higher standard of weight and are made to suffer loss in the grading of jute, the Government will take early steps—

(*i*) to fix standards of weights and measures at a seer of 80 tolas and at maund of 40 seers, and

(*ii*) to standardise the quality and grade of jute;

(*g*) if not, what stands in the way;

(*h*) whether regard being had to the fact that the cultivators suffer loss from want of information regarding jute forecasts, the Government will take early steps—

(*i*) to prepare and publish from time to time in popularly read vernacular papers jute forecasts with comparative figures for three previous consecutive years; and

(*ii*) if the answer to (*i*) be in the negative, what are the grounds of such inaction;

(*i*) whether there was ever a plan of the Government to set up an organisation of experts to make researches for new uses and new possibilities of jute to work in co-operation with the Indian Central Jute Committee;

(*j*) if the answer to (*i*) be in the negative, whether Government consider the desirability of setting up one such organisation; and

(*k*) whether the Government intend to adopt measures to raise up the price of jute; if so, what measures?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: (*a*) and (*b*) Yes.

(*c*) to (*e*) It is the policy of Government to take all practicable steps to ensure that as far as possible the supply of raw jute is regulated so as to conform to the anticipated world demand. So far, attempts have been made to secure this object by a policy of voluntary restriction. The question as to whether some form of compulsory restriction is now necessary or desirable and how such restriction could be practically enforced, is now being investigated. It is not possible to say now what form such restriction would take, if a policy of compulsory restriction were decided on.

(*f*) (*i*) The question of standardisation of weights and measures is under consideration. The subject of weights and measures concerns primarily my colleague the Hon'ble Minister for Local Self-Government who is fully alive to the urgency of the matter.

(*ii*) This question is being investigated. It presents very considerable technical difficulties. I hope that with the assistance of the Central Jute Committee and its technical experts it will be possible to establish workable standards of grades and qualities at an early date.

(*g*) Does not arise.

(*h*) (*i*) Steps are being taken to improve the supply of such information in the jute-growing areas. The suggestion made by the member will receive due consideration.

(*ii*) Does not arise.

(*i*) and (*j*) Both the Central Jute Committee and the Jute Mills Association have recently set up technological research organisations whose duty, amongst others, it is to make such researches. Government do not consider it necessary to set up any separate organisation of their own for this purpose but they are, of course, always ready to lend all possible assistance to the organisations already set up.

(*k*) It is the policy of Government to take all possible and practicable steps to see that the jute-grower receives the best possible price for the jute he grows. In my replies to the previous parts of this question I have indicated some of the many directions in which investigation is proceeding with that object in view. Before specific measures can be evolved, considerable investigation is necessary and Government are doing and will do all that they can to assist and to speed up this work.

Mr. HAMIDUL HUQ CHOWDHURY: Is the Hon'ble Minister aware that there was a committee appointed by the late Government to investigate into the question and that they have submitted their report? Has the Government taken any action on that report?

The Hon'ble Khwaja HABIBULLAH Bahadur, of Dacca: If my hon'ble friend would look up that report, he would find that they decided nothing on this matter, but Government think that there is possibility of improving the condition of the jute trade and therefore they are making further enquiries.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister please give us an idea as to the line on which they are expected to come to a decision on the matter?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: It is very difficult to explain the position now, but I shall do so on some other occasion when I shall be able to get that enquiry completed.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister be pleased to state since when the marketing staff has been working?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: The marketing staff has been working on behalf of the Government of India but we have since appointed a marketing staff of our own.

Mr. HAMIDUL HUQ CHOWDHURY: Is it not a fact that one of the marketing officers was appointed as far back as three years?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: The Marketing Officer was appointed by the Government of India.

Mr. HAMIDUL HUQ CHOWDHURY: Has he formulated any scheme for any commodity up till now?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: As I have already stated, we have started certain schemes on the advice of the Marketing Officer.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: On a point of information, Sir. I have not received any answer to my question although fifteen days' notice has expired. It is already overdue.

Mr. PRESIDENT: I think it is ready now and you will get it very soon.

Mr. LALIT CHANDRA DAS: Sir, under section 118 of the Rules and Standing Orders you admitted a special motion of mine regarding Federation, namely, that Part II of the Government of India Act, 1935, should not be brought into operation. I have not got a day with respect to this motion, although I gave notice of it some months ago.

Mr. PRESIDENT: You also gave another notice of a short-notice question day before yesterday. I hope the Hon'ble Home Minister will see that it is answered very soon and that a date is fixed for the motion under section 118 of the Rules and Order.

The Hon'ble Khwaja Sir NAZIMUDDIN: We are trying to fix a date, but it will take some time before we can settle a suitable one.

Motions for Adjournment.

Mr. PRESIDENT: The date will be announced later on.

I have received a notice from Mr. Lalit Chandra Das of a motion to adjourn the business of the House for the purpose

of discussing a definite matter of urgent public importance, namely, the condition of the political hunger-strikers in the Dacca Jail.

I have also received another notice from Mr. Narendra Chandra Datta of an adjournment motion which runs as follows:—

"That this House do adjourn to consider an urgent and definite matter of public importance as noted below:—

'The death of a political prisoner, Harendra Nath Munshi, in Dacca Jail owing to hunger-strike and apprehension of further deaths owing to continued hunger-strike in Dacca Jail." Under section 105 of the Bengal Legislative Council Rules and Standing Orders, not more than one such motion shall be made at the same sitting. I have received Mr. Lalit Chandra Das's notice first. The Chair is to see if the motion is in order. There is no doubt that it is of great public importance and it is also of an urgent nature, but will the hon'ble member please explain how it can be said to be definite?

Mr. LALIT CHANDRA DAS: Sir, it is definite in this way that I have asked that discussion may take place with respect to the conditions of the hunger-strikers in the Dacca Central Jail. A reply was given to a short-notice question by the Hon'ble Minister on the 26th January last to the effect that ten of them have gone on hunger-strike and when supplementary questions were asked with respect to a particular hunger-striker, Dr. Bhupal Chandra Bose, it came out that as a matter of fact he is a T. B. patient and is weak and the reports which appear in the papers go to show that the conditions of all of them are very bad, that as a matter of fact they are hanging between life and death. Therefore, I say that the conditions of all the hunger-strikers in the Dacca Central Jail should be the subject for discussion in this House and, therefore, I say it is specific, it is definite.

Mr. PRESIDENT: Mr. Das, if you want any information on the subject, you may obtain it by putting a question. You know that a motion for adjournment means a censure on the Government for having done something or having failed to do something. If you want mere information, that will not be properly a matter for adjournment. I would like to hear, how it is a definite matter for which you desire the House to pass a vote of censure on the Government.

Mr. LALIT CHANDRA DAS: Sir, as a matter of fact, it is not for the purpose of getting information only that I have put in this motion. It is for the purpose of discussing their conditions and I submit, Sir, that as a matter of fact, when their conditions will be discussed it will be seen that proper steps should have been taken long ago by the Government to bring about a different situation than what prevails in

the Dacca Central Jail at present. And, therefore, Sir, my motion is not merely for eliciting information but to see whether Government have fallen short of doing their duty to these hunger-strikers and it involves all these questions. Therefore, Sir, I desire to move this adjournment motion.

Mr. PRESIDENT: The difficulty which the Chair feels about it is the peculiar wording of the motion. You merely say "the condition of the political hunger-strikers in the Dacca Jail".

Mr. LALIT CHANDRA DAS: The condition is that one has died and others are hanging between life and death. Sir, I want to discuss whether the Government have taken all reasonable steps for the prevention of the death or whether, as a matter of fact, these hunger-strikers are in a precarious condition.

Mr. PRESIDENT: Order, order. The Chair does not find any difficulty to understand your intention. The Chair is to see whether these motions for adjournment do conform strictly to the Rules and Standing Orders. The Chair is to be satisfied that the wording of the hon'ble member's motion is such as to bring it within the purview of the Rules. By your motion you merely desire to discuss "the condition of the political hunger-strikers in the Dacca Jail", which is vague and indefinite. For moving an adjournment motion you must prove that the administrative department of the Government is responsible for it. The prisoners themselves have gone on hunger-strike and the Government have given you all available information regarding their present condition. If you want to censure Government for a matter, it is for you to prove definitely that there was dereliction of duty on the part of the Government.

Mr. LALIT CHANDRA DAS: My motion is for discussing a definite matter of urgent public importance. We are to discuss the conditions of these political hunger-strikers in the Dacca Central Jail and in this discussion it is not merely a question for eliciting information which can be done by a short-notice question. I have given this motion for the purpose of discussing their conditions, and discussion, Sir, implies that, as a matter of fact, things will come out which will go to show that Government has not done its duty to those political hunger-strikers and, therefore, Sir, I put in this to cover all the hunger-strikers in the Dacca Central Jail.

Mr. PRESIDENT: I have explained that the language that you have used, does not bring your motion within the purview of the Rules and Standing Orders. In your motion you have used the words "the condition of the political hunger-strikers", but you do not define the

condition. The language is too vague. My difficulty is the language of the motion. I quite see your purpose and I know that it is a matter of great public importance and it is urgent also. The Chair feels the difficulty about the language which is not definite as required by the Rules.

Mr. LALIT CHANDRA DAS: My difficulty was also in another way. If I had said that, we were to discuss the death of Babu Harendra Nath Munshi, then the question would have arisen that I cannot discuss the condition of other hunger-strikers in the Dacca Central Jail.

In the meantime one of the hunger-strikers died on the 30th January. If I put in my motion, I am to put in a specific matter of urgent public importance.

Mr. PRESIDENT: Order, order. You are not to argue. You are to show that the wording you have used brings the motion within the four corners of the rules. By referring to Hansard, I find that there was a similar motion which came before the House of Commons where the wording used in the motion was "unsatisfactory condition of employment of Lascar Seamen on board a British ship". As to the words "unsatisfactory condition" the Speaker definitely ruled, "I am clearly of opinion however that it is not a definite matter which it is essential it should be, in order to bring the motion within the rules." There are other similar cases which came before the House of Commons. Another motion was very unfortunately worded like the present motion and the words used were "the lawless condition prevailing in certain parts of Ireland"; Mr. Speaker held "I think the proposal of the hon'ble and gallant gentleman is too indefinite". There was a third case of a similar nature which runs as follows: "I beg leave to move the adjournment of the House to call attention to a matter of urgent public importance, namely, 'the treatment of prisoners and other matters referred to in the question addressed to the Home Secretary'." There also Mr. Speaker held, "The hon'ble member is altogether vague. The standing order particularly says that it must be on a definite matter that a request for adjournment is made. 'The treatment of prisoners and other matters' does not appear to me to be very definite."

So I hold that this motion is not definite in the sense in which the word is technically used in the Rules relating to adjournment motions.

The next is the motion of Mr. Narendra Chandra Datta which is as follows:—

"That this House do adjourn to consider an urgent and a definite matter of public importance as noted below:—

'The death of a political prisoner, Harendra Nath Munshi, in Dacca Jail owing to hunger-strike and apprehension of further deaths owing to continued hunger-strike in Dacca Jail'."

I think it is in order. I would like to hear if any hon'ble member has any objection to it.

As no objection is raised I fix——

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, there are two points here—whether the thing is permissible here. You also suggested that we could take objection on that ground.

Mr. PRESIDENT: Order, order. First the Chair wants to see whether the motion is in order and for that purpose, though the Chair is not bound to hear the views of the members, but still I generally consult the House. Once it is decided that the motion is in order, the Chair enquires of the House if any member has any objection. If there is any objection, the Chair enquires from the House whether the hon'ble member has the leave of the House. If the House gives the leave, the motion is then fixed for discussion at a certain fixed hour. Now I enquire whether there is any objection from any hon'ble members about the leave being granted——

Maulana MUHAMMAD AKRAM KHAN: I raise objection.

Mr. PRESIDENT: As there has been an objection I would ask those hon'ble members who are in favour of the leave being granted, to rise in their seats.

(The members rose in their seats and a count was taken.)

As not less than thirteen members have risen in their places, leave is granted and I shall take up this motion at 6 p.m. to-day.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, the prayer time now is at 6 p.m.

Mr. PRESIDENT: We shall then take up this matter at 6-15 p.m.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, can't we have it a little earlier, say, at 5-30 p.m.?

Mr. PRESIDENT: The Chair will have no objection, but I understand that Maharaja Sir Manmatha Nath desires to say something and I would like to hear him.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: My point is this that once the time is fixed, it cannot be altered.

Mr. PRESIDENT: The motion will be taken up at 6-15 p.m.

Agreement with the Reserve Bank of India.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, this is an agreement made by the Governor of Bengal with the Reserve Bank of India for doing the ordinary banking business of the Government of Bengal. Sir, as you know, under the old order of things our balances were maintained by the Central Government, but under the new Government of India Act the revenues and balances all are to be administered by ourselves. By the provisions of sections 20 and 21, the Reserve Bank of India Act, 1934, we have to do our banking business with the Reserve Bank of India and in terms of section 21(*1*) the conditions on which the Reserve Bank should do the banking business with the Provincial Governments are to be fixed by entering into an agreement. In pursuance of that provision we have already entered into an agreement with the Reserve Bank of India and under section 21(*4*) of the Reserve Bank of India Act such agreement is to be laid before the Legislature both Provincial and Central. My information is that the agreement has already been placed before the Central Legislature and we are arranging to lay it before both the Houses of the Provincial Legislature. This has already been done in this House and if any member wishes to know anything about the terms of this agreement, I shall be glad to explain things to him. The main terms are that the Reserve Bank should not charge any remuneration for doing the ordinary banking business of the Provincial Government and in lieu of that the Provincial Government have to keep with the Reserve Bank of India a definite minimum balance which is Rs. 25 lakhs in the case of Bengal. This minimum was calculated by the Controller of Currency with reference to different provinces: our share was Rs. 25 lakhs, Madras Rs. 40 lakhs and Bombay, United Provinces and the Punjab Rs. 30 lakhs each, and for the management of our future loan, if we raise any, there is a provision that they will get 1/16th per cent. as their remuneration for administering this loan business. This agreement can be terminated by giving one year's notice in the month of March if the Government think that they can do without these terms. So far as the terms are concerned, every Provincial Government has agreed to them as the first terms of agreement with the Reserve Bank. I do not think there is any exceptional term in this agreement, but if still any member desires to ask any question I shall be glad to answer it.

Khan Bahadur ATAUR RAHMAN: What is the usual cash balance of the Government of Bengal?

The Hon'ble Mr. NALINI RANJAN SARKER: It is very difficult to say: it is sometimes one lakh and sometimes 50 lakhs.

Khan Bahadur ATAUR RAHMAN: Will the Government consider what would be the interest and cost of maintaining this amount by any bank and if it is at all to the interest of Government to keep this money in the Reserve Bank without any interest?

The Hon'ble Mr. NALINI RANJAN SARKER: The time is too short to have an idea of this cost. This Government has no previous record of maintaining an account with a bank. It is very difficult to say what would have been the cost if we managed our own affairs.

Khan Bahadur ATAUR RAHMAN: In that case it is more or less an academic discussion.

Mr. PRESIDENT: I think it will be better for the Hon'ble Finance Minister to make his statement first and then for the members of the House to put questions to which he may be abie to reply one after the other. I think you should allow the Hon'ble Finance Minister to finish his statement first.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, I have finished my statement.

Mr. HAMIDUL HUQ CHOWDHURY: I think the interest clause is governed by the Act itself. As regards clause 8, there is a charge of Rs. 2,000 per crore per annum; so this is an academic discussion so far as the Provincial Government is concerned. I think that clause 8 is an unreasonable clause.

Mr. NARENDRA CHANDRA DATTA: We have heard from the Hon'ble Finance Minister the terms of the agreement between the Reserve Bank of India and the Governor of Bengal. We expected some light with regard to this—whether those terms were considered by Government and whether they made any addition or alteration or suggested any addition or alteration or they merely copied them from the agreement with the Central Government without giving any opinion of their own. If I undestood him aright, I think his statement was that they had only copied it. I am very sorry for it. Having such a responsibility as that of the Finance Minister, he should have carefully examined the document because the next Finance Minister may say that as his predecessor has followed a particular course, he cannot go back on that and vary it now. I expected that the Finance Minister who occupies such an important position in the financial world of India would give his own serious consideration to the terms and try to improve them for the benefit of the people of Bengal. As far as I have been able to go through the terms, I find that the agreement is an one-sided document; all the benefits go to the Reserve Bank of India

and all the losses are to be borne by the people of Bengal. In entering into this agreement no arrangement was made for any financial help towards the needs of this province except that the Reserve Bank undertakes to raise loans on behalf of this Government for which Rs. 25 lakhs would always remain with it, free of interest. At the same time the Bank will charge for all work done by them. In these circumstances my submission to you is this: that the Council should have an early opportunity of considering these terms of agreement. These terms ought to have been placed before this House for its consideration before they were entered into by the Government of Bengal. So far as I understand, it was in last August that the document was completed and to-day is the 2nd of February, 1938. The document ought to have been placed before this House and the Lower House long ago.

This is all I have got to say with regard to this agreement.

Mr. NARESH NATH MOOKERJEE: Under the provisions of this agreement the Government propose to hand over to the Reserve Bank of India all their financial operations. Therefore it seems that our Finance Department has entirely divested itself of its present power except perhaps the power of framing the budget. Now I shall proceed to discuss the agreement clause by clause. Clause 4, I consider, is highly prejudicial to the interest of Government itself. Under this clause the rate of interest on loans to be raised by Government is to be fixed by the Reserve Bank.

The Hon'ble Mr. NALINI RANJAN SARKER: No, certainly not.

Mr. NARESH NATH MOOKERJEE: There is no provision to state clearly that it should be done in consultation with the Government of Bengal, and in fixing this rate I do not think the Government will have any hand at all. In clauses 5 and 6 we find that Government may have to pay interest up to bank rate for any advances that it may take from the Reserve Bank. Now, Sir, I consider that this is not only unusual but in no other country of the world is the Government made to pay such a high rate of interest as the bank rate for its advances from the Reserve Bank. In the European countries—in England and America I think the rate is about 50 per cent. less than the bank rate prevailing at the time of the advance. I consider this is likely to prove a very great handicap to the borrowing capacity of the Government and it is likely to place the Government in a very disadvantageous position, because this high rate of interest is likely to tell very heavily on the schemes that the Government may undertake.

Clause 7, I consider, is a very dangerous clause. Under this clause the Government makes the Reserve Bank its sole financial agent for investing all funds. Now, I submit that the Reserve Bank will be

the sole authority to manipulate all the finances of the Government. As for instance, occasion may arise when certain securities that are held by the Reserve Bank are falling and the future of the securities are supposed to be bad, the Reserve Bank under its present power that we are handing them, may withdraw their own money from the security and invest Government money in that bad security thus landing us in a loss.

Now, Sir, before I sit down, I may say that these are only a few of the observations and I have not had enough time to go into details. I also consider that some minimum rate should be fixed for the Government's borrowing. The Bank rate is a vague term. In the first place the rate should be clearly specified. Secondly, we should also try, if possible, to fix a certain figure, say, 50 per cent. below the Bank rate. Now, for instance,—of course I state subject to correction—I know that the Bank rate in England for advances to the Government is generally ½ per cent. when the Bank rate for the public is 2 per cent. We would not under these provisions get any such advantage. On the contrary, the matter is left entirely vague and it will perhaps be for the Reserve Bank to say what rate of interest should be imposed on loans to Government. I do not make these remarks only to criticise the Government but with a view to seeing what can be done to improve the position. I hope necessary precautions will be taken in this matter.

Rai SURENDRA NARAYAN SINHA Bahadur: In clause 7, there is mentioned that the Bank will make further charge for the brokerage; but as regards the rate of brokerage, it is not very clear whether Government will have any control over the Bank to fix it. It may be that the Bank will charge a higher rate of brokerage.

It is the usual practice of some of the schedule Banks that they do keep current accounts and do not charge for the keeping of the account, but at the same time they pay a small interest. Here it is otherwise according to the agreement. Of course if there is a law that Government will have to keep in this Bank or certain other Banks an account free of interest and the Bank will not charge for the keeping of the account, then the rules prevailing should be observed here. It cannot be helped.

With regard to clause 15, it is said that this agreement will remain in operation even if subsequent amendments of the present law or new enactments are made. So it is not very clear to me what the exact position is, whether Government will have to make a new agreement or continue the terms of this agreement under the circumstances.

Mr. PRESIDENT: Order, order. I will now adjourn the House for prayer and the House will reassemble at 4-45 p.m. of the clock.

Adjournment for prayer.

The House adjourned for prayer till 4-45 p.m.

After adjournment.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, I am thankful to Mr. Datta that he has paid such a good compliment to me about my financial knowledge, but I am sorry I do not agree with his arguments. He says that we have copied it from other agreements. It may be so, Sir. Sometimes it is a good thing to copy. Mr. Datta himself is the Managing Director of a Bank and I am quite sure that in regard to routine matters, he copies many things from various Banks. This agreement we have discussed clause by clause and paragraph by paragraph. As you know, Sir, the system prevailing in the Secretariat entails that broad-sheets have to be prepared for every question, and I can assure Mr. Datta that every term and every section of this agreement has been separately scrutinised by Government, and our decisions have been embodied in this agreement accordingly. He has further said that we have not looked into the provincial requirements. By the provisions of the Reserve Bank of India the responsibility has been given to the Reserve Bank of India itself for catering to the different needs of the provinces. The Bank has only just been started, and I am quite sure that in time when it will be in full operation, it will certainly cater to the different requirements of the provinces.

With reference to the criticisms of my friend Mr. Naresh Nath Mookerjee, I do not think Mr. Mookerjee has very carefully studied the terms of this agreement. First of all, he said that with reference to paragraph 4 even the rate of interest for provincial borrowing will be fixed by the Reserve Bank; that is not a fact, Sir. The rate at which the Provincial Government will borrow, will be fixed by the Government themselves. The Reserve Bank will only manage the Public Debt, and what duties they are to perform in connection with the management of the debt, are fully given in section 4 of this agreement. So, I need not repeat them here. He also said that under section 7 of the agreement we have given full authority to the Reserve Bank for our own investment, and they can pass on undesirable securities for Government investment. That also is not a fact. They are to be our agents. If we want them to invest our money in Government securities, they will do so; and if we desire them to buy treasury bills for us they will do so as the agents of Government, and we ourselves are quite competent to decide in which securities or in what way we shall invest our money.

With reference to the criticism of my friend Mr. Hamidul Huq Chowdhury that 1/16th per cent. is a little excessive for the work that the Reserve Bank will perform, it may be so, Sir. From our experience

for the last eight months during which time we have not raised any loan, it is difficult for me to say whether this percentage is sufficient or not. But if we find that it is excessive, then, there is, as I have already said, provision in the agreement that by giving one year's notice we can cancel this agreement or modify the terms if we want to do so.

I do not think there is any other point that has been raised by the hon'ble members which has not been replied to by me.

Mr. PRESIDENT: I should draw the attention of the House that when any hon'ble member criticises any Hon'ble Minister, it should be his duty to be present when the Hon'ble Minister replies to such criticism. It was very unfair on the part of Mr. Narendra Chandra Datta to have been absent just at the time when the Hon'ble Minister was replying to the debate. ("Hear, hear" from the Treasury Benches.)

Committee of Privileges.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that a Committee of Privileges be appointed consisting of the following:—

(1) Mr. Hamidul Huq Chowdhury (Chairman),

(2) The Hon'ble Sir Bijoy Prasad Singh Roy (Minister in charge of the Revenue Department),

(3) Dr. Radha Kumud Mookerji,

(4) Maharaja Sir Manmatha Nath Ray Chowdhury, of Santosh,

(5) Mr. E. C. Ormond,

(6) Khan Bahadur M. Abdul Karim,

(7) Khan Bahadur Ataur Rahaman,

(8) Mr. Humayun Kabir,

(9) Begum Hamida Momin,

(10) Khan Sahib Abdul Hamid Chowdhury.

(11) Mr. Kader Baksh,

(12) Khan Bahadur M. Shamsuzzoha,

(13) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,

(14) Rai Keshab Chandra Banerjee Bahadur,

(15) Mr. Ranajit Pal Choudhury,

and with your permission, Sir, I would like to add that the quorum shall be five.

Mr. PRESIDENT: Motion moved: "That a Committee of Privileges be appointed consisting of the following:—

(1) Mr. Hamidul Huq Chowdhury (Chairman),
(2) The Hon'ble Sir Bijoy Prasad Singh Roy (Minister in charge of the Revenue Department),
(3) Dr. Radha Kumud Mookerji,
(4) Maharaja Sir Manmatha Nath Ray Chowdhury, of Santosh,
(5) Mr. E. C. Ormond,
(6) Khan Bahadur M. Abdul Karim,
(7) Khan Bahadur Ataur Rahaman,
(8) Mr. Humayun Kabir,
(9) Begum Hamida Momin,
(10) Khan Sahib Abdul Hamid Chowdhury,
(11) Mr. Kader Baksh,
(12) Khan Bahadur M. Shamsuzzoha,
(13) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,
(14) Rai Keshab Chandra Banerjee Bahadur,
(15) Mr. Ranajit Pal Choudhury,

and that the quorum shall be five."

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: May I ask the Hon'ble Minister to be good enough to include the name of Rai Manmatha Nath Bose Bahadur, if he possibly could do so?

Mr. PRESIDENT: There must be some system by which the names have been included. You take a name from each party: Is that not so, Sir Nazimuddin?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes. As a matter of fact we have included three members from the Maharaja's party.

Mr. LALIT CHANDRA DAS: Why not three from the Congress party? Can you not add the Secretary?

The Hon'ble Khwaja Sir NAZIMUDDIN: It would be a dangerous precedent, Sir, to go on adding names. Of course, as far as the Committee of Privileges is concerned, I leave the matter entirely in the hands of the President and the members of this House, but the Hon'ble the President's desire was to have a small Committee, and I have no objection if he agrees to add two more names.

Mr. PRESIDENT: In the British House of Commons where the number of members is six hundred and fifteen, the Committee of Privileges consist of only ten members. The Hon'ble Minister has here included as many as fifteen members from among a body considerably smaller than House of Commons. I think, therefore, there need not be any further addition to this Committee.

The motion was then put and agreed to.

Non-Official Resolutions.

Mr. PRESIDENT: The House will now take up the resolutions.

Rai BROJENDRA MOHAN MAITRA Bahadur: With your permission I beg to make some verbal amendment to my resolution.

Mr. PRESIDENT: If it is merely a verbal amendment, I shall allow it, otherwise it must be formally moved. Is it a verbal amendment?

Rai BROJENDRA MOHAN MAITRA Bahadur: The amendment that I wish to move is this: that in the third line after the word "Bengalees" the words "including those domiciled in Bengal" shall be added, so that it will read like this—

"This Council is of opinion that in filling up vacancies under the Government of Bengal none but Bengalees, including those domiciled in Bengal, should be appointed except where specialised knowledge is necessary and suitable qualified Bengalees are not available."

Mr. PRESIDENT: All right; I allow you to make the verbal alteration in your resolution.

Rai BROJENDRA MOHAN MAITRA Bahadur: In this connection, Sir, I do not wish to make any speech. I beg to move——

Rai SURENDRA NARAYAN SINHA Bahadur: On a point of order, Sir. May I know if this amendment has the consent of the House?

Mr. PRESIDENT: Let him move it first.

Rai BROJENDRA MOHAN MAITRA Bahadur: I beg to move—

"This Council is of opinion that in filling up vacancies under the Government of Bengal none but Bengalees, including those domiciled in Bengal, should be appointed except where specialised knowledge is necessary and suitable qualified Bengalees are not available."

I hear that the Government of Bengal are trying to give effect to the policy embodied in this resolution. I do not wish to make any speech, but I would like to hear from the Hon'ble Minister in charge so that the House may have an idea of the policy that Government are pursuing.

Mr. PRESIDENT: The resolution moved: "This Council is of opinion that in filling up vacancies under the Government of Bengal none but Bengalees, including those domiciled in Bengal, should be appointed except where specialised knowledge is necessary and suitable qualified Bengalees are not available."

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, this is a resolution which will commend itself to every right-thinking person. I give my whole-hearted support to the proposal embodied in the resolution of Rai Brojendra Mohan Maitra Bahadur. This is a question of self-preservation, pure and simple. If we consider for a moment the fate of the Bengalees in other provinces, then we have no other alternative than to pass the resolution unanimously. In Assam, for instance, the Bengalees are not allowed to purchase lands without the permission of the Provincial Government. In Bombay, the Bengalees are not given trade licenses. There is a strong feeling against the Bengalees in Burma, Bihar, Orissa and other provinces. It is a well-known fact and needs no dilating upon. It is also well-known that forty-six per cent. of the population of Calcutta are non-Bengalees. Whereas the Governments of the other provinces are fully alive to the interests of the people, the Local Government is indifferent to the vital problems with which we are confronted at the present moment. Sir, the resolution has not been tabled in a spirit of hostility and it is far from our intention to retaliate because the sister provinces have thought fit to impose restrictions on the Bengalees in matters of trade, commerce, etc., but it is a matter which calls for immediate action on the part of the Government. I do not know what the Hon'ble Minister has to say on this point, but I think the Government of Bengal should adopt a definite policy regarding the distribution of services under their control. It is also well known that the motor business in Calcutta has been practically monopolised by the Punjabees. The helplessness of the people of this province and the absence of any protective measures on the part of Government have resulted in increasing unemployment in Bengal——

The Hon'ble Mr. NALINI RANJAN SARKER: On a point of order, Sir. The hon'ble member is referring to something which is outside the scope of this resolution.

Mr. PRESIDENT: Rai Bahadur, you must confine yourself to the subject-matter of the resolution itself.

Rai KESHAB CHANDRA BANERJEE Bahadur: I have not introduced any irrelevant matter into the debate, but I am trying to confine myself to the subject-matter of the resolution as far as possible. How can I avoid a reference to the question of unemployment in dealing with such an important issue?

I had occasions to give notices of a similar resolution in four successive sessions of the Council, but unfortunately the ballot-box did not favour me. Now that an opportunity has presented itself to draw the attention of the Government to this question of vital importance to us, I hope the House will give it the consideration it deserves.

Khan Bahadur Maulvi MOHAMMAD IBRAHIM addressed the House in Bengali. The following is the English translation of his speech:—

Mr. President, Sir, a cry like Bihar for the Biharis, Assam for the Assamese, Orissa for the Oriyas has been raised on all sides. But Bengal is an empire for plundering. On whichever side we may cast our eyes, we see that the Bengalees find no favour in Bengal. Look at Calcutta. It seems to be a town belonging either to Bombay or to some other province. Go to Burrabazar side, you will feel like visiting Rajputana. To whichever part of the city, be it Colootola or any other place, we may go, the impression never grows on us that this town belongs to Bengal. In the field of business we find Bengal flooded with Marwari mahajans. Not to speak of business alone, even as regards the job of a mechanic or of a gate-keeper, the Bengalees are given no precedence; they are ousted even there. Having been employed as constables, the Biharis or other people hailing from outside are draining away large sums of money every year out of Bengal. I find that the zemindars of Bengal, while appointing their gate-keepers and peons, are apt to give preference to the Bhojpuris with pieces of cloth tied round their cheeks and beard. Thus, the Bengalees have been gradually ousted from every sphere of activity. They have no place in any walk of life whatever. If one closely observes the crowd on the streets of Calcutta, one feels as if this were no part of Bengal! Hundreds of unemployed persons from outside are finding employment in Bengal, while the ranks of the unemployed in Bengal are swelling on and to-day the leaders in Bengal have to rack their brains for a solution of the unemployment problem. One day I was going to Howrah in the early hours of the morning. As the Howrah bridge was still closed, I had to wait for some time. In the meantime a crowd of five or six hundred strong gathered there. Looking round, I noticed only five or six Bengalees in it. All the rest belonged to other provinces. This is why I say that people from every province other than Bengal find jobs in Calcutta. Beginning from petty shops of *muri* and *murkhi* up to shops of every other description, the Bengalees are conspicuous

by their absence everywhere. In view of restrictions on the employment of the Bengalees in other places, special efforts should be made in the legislature to create special opportunities for the Bengalees in Bengal. Hence, the mover is well-advised in moving his resolution. To-day even the zemindaries in Bengal are in many places passing into the hands of people hailing from other provinces. Just as it is the case in other provinces, viz., Bihar for the Biharis, Assam for the Assamese and Orissa for the Oriyas, in the same way it should be the case with Bengal as well, viz., Bengal for the Bengalees. I, therefore, wholeheartedly support the resolution.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, so far as the spirit of the resolution is concerned, Government have every sympathy with it and under the present rules Government are giving effect to the principle laid down in this resolution. But so far as the remarks of the various members who spoke on this resolution are concerned, I want to say one or two things personally. These are not Government views but my own. The Khan Bahadur has lamented that in business the Marwaris are in the field. If you really want that Bengalees should be more in the business line, the way to achieve the objective is not to try to drive away others but ourselves to go more and more in the business field. Another thing that I want the Khan Bahadur to realise is that Calcutta does not serve Bengal only. Calcutta is a port town and in business the United Provinces, part of the Central Provinces, Orissa, Bihar and Assam are all served by the Calcutta port. So for business, people of the other provinces have every right to come and settle here——

Rai KESHAB CHANDRA BANERJEE Bahadur: What about Bombay which also is a port town?

The Hon'ble Mr. NALINI RANJAN SARKER: Bombay is a port town where lots of Madras people and Marwaris are doing business. The Bombay Government have not passed any legislation prohibiting other people from settling down and doing business there. I do not want to raise a false cry on this issue. Bengal is one of the foremost provinces in India. If you analyse why we are lagging behind, you will find that it is because we gave up business preferring zamindari and that is why other people have come into the field and are doing business. I may cite one or two instances. Dwarkanath Tagore, the grandfather of Rabindranath Tagore, was at first in the business line and after making a fortune in the line bought a zamindari and became a zamindar. In the case of Pran Kissen Law, a premier businessman of Calcutta, his descendants have given up business and are now zamindars. A complaint has also been made that zamindaries are being bought by outsiders. If you want to sell anything and there are buyers who have come

from outside, you cannot stop them from buying. But instances are not few where we find Bengalees as zamindars in Bihar, Orissa and the United Provinces and up till now except in Madras and Bombay, about which I have some doubt, there are lots of Bengalees there having property and position and in service. So far as the spirit of this resolution goes, even under the present rules which were promulgated in 1930, in superior services preference is always given to a Bengalee and if you analyse the position you will find that there are few exceptions in which non-Bengalees have been given preference. It is in the inferior services that non-Bengalees have been taken and Government are examining the rules in order to give effect to the spirit of the resolution moved by my friend, Rai Bahadur Maitra.

Mr. RANAJIT PAL CHOUDHURY: On a point of information, Sir. Was the last pronouncement of the Hon'ble Minister made on behalf of Government or was it his personal view?

The Hon'ble Mr. NALINI RANJAN SARKER: I have said definitely that the Government of Bengal are revising the rules regarding inferior services. I was very particular about that.

Rai BROJENDRA MOHAN MAITRA Bahadur: In view of the assurance that the Government of Bengal are going to revise the rules I beg leave to withdraw the resolution.

Mr. PRESIDENT: Is it the pleasure of the House to allow the hon'ble member to withdraw his resolution?

The resolution was then by leave of the House withdrawn.

Mr. PRESIDENT: The hon'ble member Mr. Syed Muhammad Ghaziul Huq has requested me to allow Begum Hamida Momin to move the next resolution which also stands in her name lower down the list.

Begum HAMIDA MOMIN: Sir, I beg to move that this Council is of opinion that the Sakhawat Memorial Girls' High School for Muslim girls be raised to the standard of a second grade college with effect from 1st July, 1938.

Sir, it is a matter of common knowledge that Muslims in Bengal are still very backward as regards the education of their girls and it is essential that proper and legitimate facilities should be given to them to encourage higher education among them. Whatever might have been the cause at the beginning for this backwardness, at the present time it is in no way due to any want of inclination or desire for higher education either among the girls themselves or their parents. Even when the Muslim boys shook off their indifference for western

education and began to attend schools, the Muslim girls were still kept back as the parents considered it undesirable for their girls to attend the general schools which lacked in Islamic atmosphere and purdah arrangement. That is the reason that while they forged ahead and held their own in primary education, their progress is inconsiderable in secondary education and almost imperceptible so far as collegiate education is concerned. In the year 1913-14 the total number of Muslim girls in primary schools was 66,000. It rose to 302,000 in 1931-32. Although there were many middle and high English girls' schools in Bengal, very few Muslim girls attended them. And the first impetus given to middle and secondary education of Muslim girls was by the late Mrs. R. S. Hussain when she started the Sakhawat Memorial Girls' School in 1911 with only seventeen girls in the infant class; and while little or no progress has been made in the number of Muslim girls attending other schools for girls, the number on the roll in the Sakhawat Memorial Girls' School is over three hundred this year. In the same way a large number of Muslim girls attend the M. A. O. Girls' School founded and run by Mrs. Hakam and although the latter receives no aid from Government and the former till lately was only an aided school lacking in many of the modern equipment, still the Mussalmans preferred to send their girls to these schools to many other more efficient and better equipped schools which lacked in Islamic atmosphere. This fact demonstrates the absolute necessity of providing special facilities which the Muslim community need for the education of their girls and now that the Muslim girls are passing their Matriculation in increasing numbers every year, the progress is not maintained so far as collegiate education is concerned. In the year 1931-32 there were six girls in the Intermediate Classes and even after six years the number has not gone up above twenty-five. The reason is not far to seek. There are very few girls' colleges outside Calcutta and parents are unwilling to send their girls to institutions where they are not likely to feel at home and where purdah arrangements do not exist and male professors are on the staff. The only college which has a women's branch is the Vidyasagar College but it does not admit Muslim girls.

In spite of all these disadvantages, some Muslim girls are attending the existing colleges which shows that the desire for higher education is gaining ground among them. I know of a case where a Muslim girl student of good family used to attend her lectures before a male professor with a *borkha* on. This is neither convenient nor conducive to health and freedom of action. It is apparent that if there was a college in Calcutta which did not clash with the social and religious ideals of Muslims, girls of that community would flock to that college and higher education of Muslim girls would receive a great impetus.

It might be argued that the number of girls who are likely to attend this college will be too small just yet to justify the expenditure

of an Intermediate College. It will not be out of place to mention here that we find in the Momin Report that when the college department of the Bethune Government High School was opened in 1879, there was only one student reading in that department. "In 1886-87 there were only four students and even in 1896-97 the number of students in the college department was only twenty-three. It is evident that an entire first-grade college had been maintained for many years at Government cost for a negligible number of students."

The demand I am now making is much more modest and reasonable. I am asking for opening only the two Intermediate Classes and I dare say as soon as this is done, the number of students will be much higher than it was in the Bethune College twenty years after its inception. I assure you, Sir, and through you this House, that in moving this resolution I am giving expression to the urgent demands of the Muslim community. The Anjuman-i-Khawatin-i-Islam at their general meeting recently held, passed a resolution urging the necessity of raising the Sakhawat Memorial Girls' School to an Intermediate College, a copy of which was forwarded to the Education Department of Government; and in the address which was presented to Her Excellency Lady Linlithgow, a similar prayer was made by the Managing Committee of the Sakhawat Memorial Girls' School.

I wish to make it absolutely clear that my intention in moving this resolution is free from any communal bias. The Mussalmans, I am sure, will not have any objection to girls of other communities reading in this college so long as the college is run in accordance with the requirements of Muslim girls. In this college adequate arrangements will necessarily be made for the teaching of Arabic and Persian and for the observance of Islamic rites and rituals. These it is not possible to provide in any other college not meant mainly for Muslim girls. It may be argued that instead of having a small college with a few Muslim women students, Muslim girls may be accommodated in special hostels and a conveyance provided for them to take them to the Bethune College where they could prosecute their studies. This will not meet the objections of the Muslim community or at least the conservative portion of it, and it is not the same thing as providing a special college of their own.

The cost after all will not be very much and is certainly justified if Government have any desire, as it should have, to encourage higher education among Muslim girls. It is no use to try to force the pace and ride rough-shod over the legitimate susceptibilities of a whole community. There are hundred and one special usages and traditions which the Muslims value and want to keep intact. It is not statesmanship to shut our eyes to them. In the past, Government have made the greatest mistake in not recognising in time the special needs of

the Muslim boys and girls in the matter of their school education. It will be still more disastrous if they commit the same mistake in the higher education of Muslim girls. In this connexion, with your permission, Sir, I would like to quote the remarks made in the Momin Report with regard to the backwardness of the Muslim community in respect of school education which equally applies to higher education of Muslim girls.

"It is usual to put the entire blame on the Moslem community for their backwardness in education. While they are certainly liable to a great extent for their neglect in not quickly adapting themselves to changed conditions of things and in not accepting the inevitable, we cannot, as will appear from the history of the progress of education outlined in this chapter, absolve Government from the charge of not doing their duty to the Mussalmans of Bengal by supplying the educational needs of the community. For more than a century after the assumption of the Dewani by the British, Government did not take any serious steps to advance Moslem education, although they were aware of the reasons of their backwardness. A death blow had been struck to the educational, social and economic life of the community by the replacement of Persian by English as the official language of the country, yet no steps were taken to draw the community towards English education by gradually remoulding the then existing institutions to satisfy the secular and religious susceptibilities of the community. It was not till 1871 that the backwardness of the community was noticed by Government and not till 1873 that active steps taken to improve the lot and that only half-heartedly. The food the Moslems wanted and to what they were accustomed, was different from what the Government provided for them. They found it unpalatable and refused to take it and starved. Government did not notice their plight for a long time and even when they did, they did not do their duty by them."

In conclusion, Sir, I appeal to the House to consider my resolution seriously and sympathetically and not let a large section of the inhabitants of Bengal to continue to remain in a crippled state of mind and body by refusing them the facilities they need for their education, and finally I appeal to the Hon'ble the Premier who is also the Education Minister to accept this modest demand from the Muslim women of Bengal. I venture to remind him how in spite of considerable opposition, he succeeded in establishing the Islamia College and thereby afforded opportunity to Muslim boys to prosecute their collegiate education. That was an act which has given him an abiding place in the hearts of Muslim students of Bengal. The need for a college for Muslim women students is more urgent and imperative. I appeal to him to give effect to this resolution without delay and thereby earn the eternal gratitude of the Muslim women of Bengal also.

Mr. PRESIDENT: Resolution moved: "This Council is of opinion that the Sakhawat Memorial Girls' High School for Muslim girls be raised to the standard of a second grade college with effect from 1st July, 1938."

Khan Bahadur Maulvi MOHAMMAD IBRAHIM addressed the House in Bengali. The following is the English translation of his speech:—

Mr. President, Sir, I want to deal with a few points in support of the resolution on female education. In the words of the poet we may say. "there can be no awakening of India unless the whole of her womanhood wakes up". Not to speak of India alone, no nation on earth can wake up without its womenfolk awakening first. In order to awaken any individual, society, nation or country, it is first necessary to awaken the womenfolk. No individual, nation, society or country can awake without the awakening of women. As we look at the awakening of Europe, America, Japan, etc., we find the awakening of womenfolk behind it. I have full sympathy with those who want to rouse the country by wearing Khaddar. But I believe that no country, society or nation can awake without the awakening of women. It is true that the Moslem community in the medieval period made much progress under the auspices of the then greatest civilization in the world, but in competition with science and culture of the modern times that civilization has suffered a complete eclipse. It is needless to dwell at length on the fact that the Moslem community, clinging as it does to this time-worn civilization even to this day, is being dubbed as the "sick man" everywhere in the world. Hence, the awakening of women is all the more necessary among them. Unless the Moslem women can be awakened without delay, there is no way of removing this stigma of inferiority on the Moslem community. Thus, it is very urgent that steps should be taken for the dissemination of education among Moslem women. The proposal for starting a second grade college in Calcutta is, therefore, quite in the fitness of things. It is doubtful if there is a good number of high schools for Moslem girls in Bengal. Only a few are there for the purpose. There is the Bethune College in Calcutta, the Eden College in Dacca, and the Faiz-un-nessa College. But I do not know whether there are good arrangements in these places for removing the grievances of Moslem female students, as also for their hostel accommodation. The Sakhawat Memorial Girls' School here meet these requirements to some extent. I, therefore, whole-heartedly support the resolution moved by the Begum Saheba urging the Government to raise the Sakhawat Memorial School to the standard of a college with a view to educating Moslem women and thereby uplifting the Moslem community as a whole.

Mr. NUR AHAMED: In supporting the resolution moved by Begum Hamida Momin, I shall add a very few words to what has already been said. I do not think there is any necessity or utility of a lengthy speech. I will speak very briefly about the present condition of the Muslim girls' higher education in Bengal. From the report published by the Government of Bengal we find that only twenty-seven Muslim girls are reading in Art colleges as against 1,025 non-Muslim girls. If we compare the figure of girls reading in middle stages we find 444 Muslims girls as against 5,493 non-Muslims girls. Going down a little, if we compare the figures of those reading in primary stages we find 3,72,000 and odd out of 6,47,026 girls. So looking from every point of view there is a great necessity for providing better facilities for advancement of higher education among the Muslim girls. There is a great cry among Moslem girls for higher education, hence the great need for better facilities for education of Muslim girls. Personally speaking, I am not in favour of sectarian institutions, but under the present circumstances considering our environments, tradition and past history, there is every necessity of a sectarian college with special facilities for Muslim girls. It is found that in the present Art colleges managed either by Government or under private management, there is very little facility for proper training of Muslim girls. In none of these colleges at present there is provision for such facilities; and this is the reason why this resolution has been moved. I am told that very recently this school has been raised to a higher stage and Government may say that it is premature to ask them to raise it to a second grade college but it is imperative that something should be done. If the Muslims are to advance in education, it is necessary that our girls should be given proper education and from my humble experience I can say that our girls cannot get education for want of proper facilities. So I appeal to this House in the name of enlightenment and of advancement of education to support this resolution. My special appeal is to those who do not belong to my community.

The Hon'ble Nawab MUSHARRUF HOSAIN, Khan Bahadur: In the absence of the Hon'ble Chief Minister, who is also the Minister for Education, I want to tell the House that the Government is very sympathetic to a scheme of a college for educating the Muslim girls within purdah. The Sakhawat Memorial School has its own building and other materials and Government think that so far as it is concerned, it should remain as a school specially meant for the education of Muslim girls. But Government consider that a scheme for imparting higher education to those girls who would like to remain in purdah should be accepted and for that purpose Government is thinking of having a college for those girls. I think this will satisfy the claim of the Muslim community. The proposer of this resolution who seems

to be very liberal-minded says that there is no objection to accommodating girls of other communties in that college. That being the position, I believe if Government would accept her suggestion and make it a college principally for the Muslim girls but allowing girls of other communities to get education in the same way as the Muslim girls, it would meet her wishes. As the Government is now thinking of establishing a college for the very purpose for which the resolution has been moved, I hope Begum Hamida Momin will withdraw her resolution.

Khan Bahadur M. ABDUL KARIM: For myself I have not been able to follow the Hon'ble Minister. What is his exact alternative to the present proposal? Will the Hon'ble Minister be pleased to give us the sum total of his speech?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Unfortunately the difficulty is very acute. We are asked to tell the House some of the secrets of the next budget. We are not in a position, really speaking, to give them out——

Mr. PRESIDENT: The Hon'ble Minister has spoken once: he can now merely reply to the questions asked and should not make another speech.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: I have answered his question and Mr. Nalini Ranjan Sarker will now say the rest.

The Hon'ble Mr. NALINI RANJAN SARKER: My hon'ble colleague remarked that it is very difficult to divulge Government's budget secret; but so far as the policy of Government is concerned, they have practically accepted the scheme of starting a college especially for the education of Muslim girls. On enquiry it was found that the number of Muslim girls would be so small at the outset that it would be very expensive to run a college exclusively for the Muslim girls. Government have therefore decided to start a college mainly for the Muslim girls, but at the initial stage to take in a number of girls of other communities as the number of Muslim girls at present is very small. Really the idea is not to have a college exclusively for Muslim girls: what is wanted is a college which will give preference to Muslim girls, to Muslim culture and to the special requirements of Muslim education.

Rai KESHAB CHANDRA BANERJEE Bahadur: The demand made in this resolution is for raising the status of the Sakhawat Memorial Girls' High School for Muslim girls to a second grade

college. It is not intended that this college will be thrown upon to girls of other communities as well.

The Hon'ble Mr. NALINI RANJAN SARKER: I would ask the Rai Bahadur to have patience and hear what I have got to say. My request to the mover of this resolution is to withdraw her resolution in view of the fact that Government have decided to open a college where Muslim girls will get special facilities for higher education.

Mr. KADER BAKSH: Sir, I do not quite understand what the Hon'ble Minister means by "special preference". Does the Government believe that the number of Muslim girls to be so small as the question of special preference for the education of Muslim girls will not arise: Personally I think that special facilities will not have a very salutary effect on the education of Muslim girls.

The Hon'ble Mr. NALINI RANJAN SARKER: I cannot engage myself in controversy: but that is the opinion of many. One of the Muslim leaders told me that he did not like to make any distinction between the girls of different communities. Government being convinced that the Muslim community wanted special facilities for Muslim girls, decided to start a college where Muslim girls will get special preference.

Begum HAMIDA MOMIN: If a new college is started where Muslim girls will have preference, will the Muslim girls be permitted to prosecute their studies there and observe purdah and whether they will not have to attend lectures given by male professors?

The Hon'ble Mr. NALINI RANJAN SARKER: I am not competent to explain the entire scheme. The Hon'ble Minister in charge of Education is not here to explain it fully.

Begum HAMIDA MOMIN: I do not want a college exclusively for Muslim girls, but I want special facilities to be given to them.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: So far as the question of Begum Hamida Momin is concerned, we will try our best to devise the scheme in such a way that it will meet with the approval of all Muslim educationists.

Begum HAMIDA MOMIN: If requisite facilities are offered to Muslim girls to prosecute their studies in that college, I beg leave to withdraw my motion.

PRESIDENT: There cannot be a conditional withdrawal.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Special facilities as required by Muslim laws for Muslim ladies and these will be offered in this college.

Begum HAMIDA MOMIN: In view of the assurance given by Government, I am prepared to withdraw my resolution.

Mr. PRESIDENT: Is it the pleasure of the House to allow Begum Hamida Momin to withdraw her resolution?

The resolution was then by leave of the House withdrawn.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move that "this Council is of opinion that a Committee of eight members to be chosen in equal numbers from the two Houses of the Legislature, and the Hon'ble Minister in charge of the Finance Department as the Chairman, be formed with powers to co-opt two additional members as experts for examining the Swan Retrenchment Committee's recommendations and reporting as to what retrenchments can be effected on giving effect to the recommendations, without seriously affecting the efficiency of the administration."

In moving this resolution it may be surprising to some of the members as to why I should be pursuing the Swan Retrenchment Committee's recommendations with such persistence but, Sir, my excuse is very simple and cogent. The Retrenchment Committee was appointed in pursuance of a resolution of the late Council, and the Chairman thereof was a renowned European I.C.S. officer of the position of the Commissioner of a Division and he was assisted by an Indian I.C.S. officer of the position of a District officer who worked as Secretary of the Committee, and the Committee had a European, a Hindu and a Muslim non-official member, all of whom were members of the Council and were renowned public men or businessmen. They sat for several months and made some unanimous recommendations which, if given effect to, would result in an annual saving of Rs. 1,84,96,000 but, Sir, the budget figures of the subsequent years showed no appreciable decrease in the cost of the administration except in one or two minor departments, and this naturally roused the suspicions of the representatives of the people. A number of questions were put on the floor of this House, and from the replies given to them we were not at all satisfied that proper consideration was given to all the unanimous recommendations of the Committee. Only the other day, some statements showing the decisions taken by Government on the recommendations of the Committee were laid on the library table, but on examining them also I am not at all satisfied that the decisions have been correctly taken in many cases. Many of the recommendations were thrown out with the simple remark that they were not

practicable. But, Sir, I take it as a slur on the distinguished I.C.S. officer and the eminent public men who formed the Committee that they made a number of impracticable recommendations. On examining the statements of the decisions it is found that the recommendations accepted so far would result in an annual saving of about 95½ lakhs of rupees. But although Rs. 95½ lakhs was estimated as the ultimate saving, at least half the amount was expected to be immediate saving, but the budget figures did not show it to be so. Sir, my countrymen feel strongly and very strongly that the cost of the administration is exorbitant and quite out of keeping with the average income of the people. The poverty-stricken and half-starving Bengal cannot bear it, and so its representatives pressed for a Retrenchment Committee, which sat and made some unanimous recommendations of which at best only half was accepted and the other half was rejected. The question naturally arises as to why the unanimous decisions of the Committee should be treated with such scanty respect. The reason is simple. These decisions were taken by the Executive on the notes of their own officers who were themselves vitally affected by the recommendations, and it is natural that the decisions should be so. Sir, we, the representatives of the people, now want to examine and find out for ourselves if the unanimous recommendations were really impracticable or they were taken to be so only because the persons interested thought them to be so. Let us, the representatives of the people, give our decision on the recommendations and the Assembly consider the Governmnt decision as well as our decision at the time of passing the budget. Sir, if this modest resolution is opposed by the Government, it will be a clear indication of the fact that the so-called popular Ministry has no regard for the wishes of the people and do not care to meet even the reasonable demands and even the modest demands put forward on their behalf in this House. With these words I commend my resolution to the acceptance of the House.

Mr. PRESIDENT: Resolution moved: "This Council is of opinion that a Committee of eight members to be chosen in equal numbers from the two Houses of the Legislature, and the Hon'ble Minister in charge of the Finance Department as the Chairman, be formed with powers to co-opt two additional members as experts for examining the Swan Retrenchment Committee's recommendations and reporting as to what retrenchments can be effected on giving effect to the recommendations, without seriously affecting the efficiency of the administrations."

Rai KESHAB CHANDRA BANERJEE Bahadur: Mr. President, Sir, I was one of those who had the privilege of appearing before the Swan Retrenchment Committee to give evidence. As far as I remember, two Retrenchment Committees were formed in the course of a

decade. The first of these was probably formed in the year 1922, under the Chairmanship of the late Sir Rajendra Nath Mookherji. On the insistent demand of the old Legislative Council another Committee was formed in 1933, and in due course they submitted their report. One of the members of the Committee was the veteran Liberal Leader Mr. J. N. Basu, M.L.A., and another was the Hon'ble Khan Bahadur Md. Azizul Huq, now Speaker of the Lower House, besides Mr. Swan, the Chairman of the Committee. The Committee after lengthy sittings came to a unanimous decision regarding certain retrenchments in the administration of the province. As the Khan Bahadur has already pointed out, their total recommendation was for retrenchment of Rs. 1,84,00,000, but I am sorry to say that like its predecessor the report of the Swan Committee was also shelved and it now finds a convenient resting place in the musty archives of the Bengal Secretariat. So far as I remember, Sir, the Department of Agriculture was practically left untouched by the Government in the matter of retrenchment. The evidence on record proved beyond doubt that the administration of the department was top-heavy, and there was ample scope for reduction of expenditure. I was one of those who strongly pointed out the desirability of effecting retrenchments in that department and of making better provision for demonstration which had so far been neglected by the Government. There is at present in Dacca a big Laboratory which is manned by high-salaried officers, but the results of the research that is now being carried on there, do not reach the cultivators. That was one of the popular grievances which I brought to the notice of the Committee, and if I remember aright, certain useful recommendations were made by the Committee, but ultimately the Bureaucratic Government did not consider it necessary to effect any retrenchment in that direction. There are other departments, for instance, Excise, Irrigation, Forest, etc., in regard to which drastic retrenchments were recommended. Now, the proposal of the Khan Bahadur is for the appointment of another Retrenchment Committee by Government——

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Not a Committee to be appointed by Government but to be chosen from the two Houses of this Legislature, to examine the Swan Committee's recommendations afresh.

Rai KESHAB CHANDRA BANERJEE Bahadur: I stand corrected, Sir. It is, indeed, very desirable that the Swan Committee's recommendations which were submitted four or five years ago should be subjected to a thorough scrutiny by a Committee constituted in terms of this resolution. Sir, things have changed since the report was considered by the then Government. Now that we have got provincial autonomy, it is essential that the whole question should be

thoroughly examined and fully gone into in order to enable the present Government to reconsider the report of the Swan Committee with special reference to the condition of the Government and of the province as a whole. With these words, I wholeheartedly support the resolution.

Mr. PRESIDENT: The question before the House is that this Council is of opinion that——

The Hon'ble Mr. NALINI RANJAN SARKER: Shall not I be allowed to reply to this resolution?

Mr. PRESIDENT: Well, I have already put the question, and you ought to be prompt and alert.

The Hon'ble Mr. NALINI RANJAN SARKER: I thought, Sir, that other members would like to speak on such an important matter, and that is why I did not rise earlier.

Mr. PRESIDENT: All right, you may reply.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, at the time of the last budget discussion in another House the question of the Swan Committee's retrenchment proposals was raised, and I intimated to that House that this Government would again scrutinize those proposals, and the result would be made known to this legislature. In pursuance of that statement we appointed a Special Officer who is also a distinguished member of the Indian Civil Service—because I find that Khan Bahadur Muazzamuddin Hosain has great faith in the recommendations of I.C.S. Officers—and I can also tell him that he is also of the rank of a Commissioner. So his status also is the same as that of Mr. Swan. Every departmental Minister has again examined those proposals and we have been able to accept some of them but there are others which we, who also can claim to be representatives of the people, could not accept. I am preparing a white paper giving a summary of the proposals of the Swan Committee which the present Government have already accepted and also the reasons for which their other recommendations have not been accepted. This white paper will be circulated to the hon'ble members during the budget session. If, after perusing that white paper, the Khan Bahadur still thinks that a Committee should be appointed to investigate the Swan Committee's recommendations, then he would be at liberty to press for the appointment of such a Committee, but I appeal to him not to press for the acceptance of his resolution at this stage pending the circulation of those materials to

which I have referred. I, therefore, hope that he will be good enough to withdraw his resolution.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: In view of the undertaking given by the Hon'ble Minister that a white paper will be circulated to the members of this House, I beg leave of the House to withdraw my resolution.

Mr. PRESIDENT: Is it the pleasure of the House to allow Khan Bahadur Saiyed Muazzamuddin Hosain to withdraw his resolution?

The resolution was then withdrawn by the leave of the House.

Mr. PRESIDENT: I now adjourn the House till 6-15 p.m. for prayer.

Adjournment for prayer.

The Council was then adjourned for 15 minutes for prayer.

After adjournment.

Motion for Adjournment.

Mr. NARENDRA CHANDRA DATTA: I beg to move that this House do adjourn to consider an urgent and definite matter of public importance as noted below:—

"The death of a political prisoner, Mr. Harendra Nath Munshi, in Dacca Jail owing to hunger-strike and apprehension of further deaths owing to continued hunger-strike in Dacca Jail."

Mr. President, Sir, the facts of this most miserable, unfortunate and horrible death of Mr. Harendra Nath Munshi are as follows:—

About ten political prisoners in Dacca Jail submitted to Government a list of their grievances which Government did not try to remove and with the object of protesting against the inhuman and insulting treatment to the political prisoners in Dacca Jail, they started the strike. The strike was not certainly with the object of getting themselves released or of releasing all political prisoners elsewhere in the province. Some six or seven days ago, in reply to a question of an hon'ble member of this House, a short-notice question, the Hon'ble Home Minister replied that amongst other things the prisoners had been warned that they rendered themselves liable to prosecution for refusing their diet and that necessary steps were being taken by the medical authorities to preserve their lives. The Government are not prepared to treat prisoners convicted of offences such as murder, dacoity and illicit possession of or traffic in arms or of conspiracy to

commit such offences as distinct from other offenders. There the Hon'ble Home Minister gave a distinct understanding and assurance to this House that steps were being taken to preserve their lives but by the death of Mr. Munshi it has been proved that sufficient and adequate steps were not taken by Government to preserve the life of at least Mr. Munshi. It has transpired from reports in the newspapers and the report submitted by the jail visitor, that Mr. Munshi was suffering from a weak heart and without noting this defect, a serious defect in the organism of Mr. Munshi, Government resorted to artificial feeding by force, and this brought about the catastrophe. I ask the Hon'ble Minister whether it was proper and reasonable for a responsible Government to instruct its medical officers in jails to examine the prisoners on hunger-strike, as to whether they could bear the effect of forcible feeding. If that was done, and I think that was not done, then the responsibility for the death of Mr. Munshi is on the Government, and the whole country demands, as has been evidenced by so many meetings and statements of leaders and of the Indian Press, that the country should ask for and must have an adequate explanation and also a statement of facts from the Government as to why his life was lost through neglect and negligence. I must remind the Hon'ble Home Minister that Government are responsible for the well-being and for the preservation of lives of all persons under their care, and especially all persons who are within their prison walls. But the Home Minister instead of taking proper care to preserve the life of political convicts, threatened them with prosecution. That was the irony of the thing but unfortunately the Home Minister cannot prosecute him now. He is beyond the pale of the Government of Bengal. Those people who do not care for their lives but resort to hunger-strike to kill themselves, are not afraid of prosecution. Another statement which the Hon'ble Home Minister made in reply to the question of an hon'ble member of this House, is that hunger-strike should not be encouraged. I on behalf of this side of the House may inform the Home Minister that we are not in favour of hunger-strike. It is not our business to encourage it. We have got a sense of responsibility in us but we are sorry to find that it is the Government which by their reckless treatment and reckless irresponsibility drives people to hunger-strike when they find there is nothing left for them but to resort to it to get their grievances removed. I also find from to-day's paper that some of the grievances have already been removed. I ask the Home Minister whether the life of Mr. Munshi could not have been saved, if some of these grievances had been removed before his death. One point is that when the strike was going on and their case was hopeless, they wanted to come and discuss together so that they could come to a decision with regard to the abandonment of the strike but that was not allowed. That was a *bona fide* attempt on their part to talk and discuss together to come to a decision whether the strike should be continued or not. May I ask in the name of

humanity and good administration why this was not allowed? Probably it was the prestige of the Government which stood in the way but the prestige of the Government has brought about the death of a man. It was a very valuable life. Every life is valuable and the life of a political prisoner is no less.. Now, Sir, this is not the first time that death has occurred through hunger-strike. It is probably the third instance. May we ask in all seriousness that Government should take steps whenever there is a hunger-strike with the object of killing themselves that their lives may be preserved even at the risk of the prestige of the Government? The visitor who went to Dacca Jail asked the Deputy Jailor to call for a doctor immediately and a warder was sent to call the Civil Surgeon and the Assistant Surgeon who were then within the Jail, by the visitor at the time. They could not be found by the warder. The visitor requested the Deputy Jailor to send for the Jail Doctor who after examining Harendranath said that it was a result of nasal feeding only a short time ago, that he was vomiting the milk diet which was forced into his empty stomach and that there was no cause for anxiety. The visitor returned and found Harendranath lying on his back with eyes closed. We do not know whether his eyes opened again. With these few words I commend this motion to the acceptance of the House.

Mr. PRESIDENT: Motion moved: "This House do adjourn to consider an urgent and definite matter of public importance as noted below:—

'The death of a political prisoner, Mr. Harendra Nath Munshi, in Dacca Jail owing to hunger-strike and apprehension of further deaths owing to continued hunger-strike in Dacca Jail'."

Mr. LALIT CHANDRA DAS: In reply to a short-notice question the Hon'ble Home Minister gave certain particulars about the hunger-strike in the Dacca Central Jail on the 26th January last. On 27th January, the very next day, I enquired particularly about the health condition of each of those political hunger-strikers. At a time when the Government styles itself as democratic and wants to build up a democratic tradition and also good conventions, it is up to that Government to allay public feeling and anxiety by replying to questions and also by issuing bulletins, if necessary, regarding the health of persons about whom the public are very anxious. As a matter of fact the Hon'ble Home Minister did not accept my question on short notice. Even after the death of Harendranath Munshi I sent up a question regarding his death and also regarding other strikers in the Dacca Central Jail on the 31st January. Those questions were short-notice questions but unfortunately the Hon'ble Home Minister has not yet replied to them. With shocking suddenness on the 30th January last a telegram from Dacca broke the news that Convict

No. 5566A Babu Harendranath Munshi had expired. He was suffering from heart disease and the papers reported that he was fed through the nose, he vomited and that brought about extreme exhaustion. Just consider the position of one suffering from heart disease, vomiting and collapsing in extreme exhaustion. Babu Amulya Ratan Guha, a non-official jail visitor and Vice-Chairman of the District Board of Dacca made certain remarks in the Visitors' Book and recorded the grievances of the prisoners. It is for the Home Minister, in view of the gravity of the situation, to call for a detailed statement from the said jail visitor and then to be satisfied with the thing but the fact remains that the brave soul has passed away. He like Jatin Das has passed away and the arms of his oppressors can no longer reach him. Dr. Bhopal Chandra Bose, a tuberculosis patient, was reported very weak by the Hon'ble Home Minister on the 26th January last. The House will be interested to know that previous to this, three tuberculosis patients, all belonging to the district of Chittagong, died in jail hospitals. So far Bhupal Babu is to-day on the 16th day of his fast. Sir, cannot action be taken under section 401 of the Criminal Procedure Code and cannot Government release Dr. Bhupal Chandra Bose? He is hanging between life and death. As a matter of fact there cannot be any special arrangement fitted with a modern apparatus for the treatment of any tuberculosis patient in jail. The previous instance should have been enough. In fact, in the case of Mr. Barua, who died of tuberculosis, the Hon'ble Home Minister had to admit that Government was considering the question of his release but it was found too late and he died. Would "too late" be the reply to-day also of Government's policy and action so far as Dr. Bhupal Chandra Bose is concerned?

Convict No. 5563A, Babu Prafulla Kumar Sen, suffers from heart disease. He is on the 23rd day of his fast. On the 10th day of his fast, Babu Harendra Nath Munshi, who was suffering from heart disease, expired. So, it would be reasonable to think that so far as Prafulla Babu is concerned, who is suffering from heart disease and is hanging between life and death, action should also be taken in respect of him under section 401 and he should be released.

Sir, the case of Babu Bhupesh Chandra Lahiri, convict No. 3325A, is no better. He is on the 16th day of his fast. He is suffering from gastric troubles and suspected ulcer in the stomach. Sir, in the Dacca jail several deaths have taken place due to bowel complaints in the course of last three years. Here is the case of a patient Babu Bhupesh Chandra Lahiri suffering from ulcer in the stomach. His case also is causing great anxiety as also the case of convict No. 3326A, Babu Ratneswar Sil, who is suffering from slow fever and pain in the chest, and as we know a patient suffering from slow fever and pain in the chest is likely to get again tuberculosis.

Convict No. 1409A, Babu Bhutnath Manna, and convict No. 5564A, Babu Dhirendra Nath Mukerji, are suffering from pain in the chest and lungs troubles; and so far as the papers report we hear that Bhunath Babu is hanging between life and death. So far as the other three prisoners are concerned, we have no further information. Of course the bare information that I had at my disposal has been placed before this House. It will be for the Hon'ble Home Minister to give such information as are in his hands for the purpose of allaying public feelings and anxieties.

Sir, there is a great question. The question is this: whether they should have any sympathy because these political prisoners have gone on hunger-strike. I respectfully submit, Sir, that it is not because certain of the major demands or grievances were not redressed that they went on hunger-strike, but I submit, Sir, that intolerably bad treatment of jail authorities and jail menials led these prisoners to hunger-strike. They even desired that so far as the major question of the release of the political prisoners is concerned, it might be left to the hands of the leaders for bringing about release after negotiations with the Government; but they were not prepared to suffer indignities at the hands of the jail authorities and the menials and they were not prepared to suffer inconveniences and hardships which could very well be redressed by the jail authorities and even by the Government when the Government came to know of these inconveniences and hardships.

Sir, in 1935 a similar hunger-strike took place at Dacca which lasted for two months from 20th January to 4th April of that year. Government promised that the grievances of those hunger-strikers would be duly considered, but when they gave up the hunger-strike, the only thing that was done was an annual grant of Rs. 100. The other grievances were not redressed.

Now, Sir, we know that the Superintendent of Police is not satisfied with a gentleman's accosting by saying "good morning". He wants something more: he wants his head to go down low with a cry of "Sarkar Salam".

Sir, there is another thing. You have put these political prisoners in class II, but these political prisoners are very contemptuously treated by the jail menials. Dacca Jail after all has acquired notoriety for brutal treatment towards the political prisoners. When these political prisoners complain, they are brought to the case table and as a matter of fact they are penalised with powdered rice and hot water and nothing else; and also they are sometimes taken into a room in which both the legs are thrust in bags. They are not even allowed to write letters and receive letters in time and even not allowed to read religious books sometimes. Sir, some of the convicts' cases are before the Hon'ble High Court. They want to communicate with their lawyers but the Superintendent insists that all instructions must pass through his channel.

They refused. After all Government is respondent in that Tittagurh Conspiracy Case. This is also one of their grievances. Sir, some of them are not allowed even petition papers to write out petitions to the Local Government. Sir, when these gentlemen prisoners complain and the Superintendent of your Jail says "No, we deny", we know whom to believe and whom to disbelieve. Sir, with respect to the Jail Superintendent, there is an insistent cry from Dacca and a resolution has been passed by the Dacca Bar Association against his conduct. During the past three years there has been not merely the death of this gentleman, Babu Harendra Nath Munshi. Mr. B. K. Das of Dacca died. We know under what circumstances Babu Rup Chandra Das died; we know Babu Anil Das died there too, and this is the fourth case in the course of the past three or four years that Mr. Munshi passed away in the same jail. There is an insistent demand for a sifting enquiry into the happenings of the Dacca Central Jail. We urge that a committee of officials and non-officials be appointed for the purpose to enquire into the grievances and also against the conduct of the Superintendent of Police and the Assistant Civil Surgeon.

Sir, what are the conditions after all? They are such that one may very well say that all these hunger-strikers are hanging between life and death. They can call off the hunger-strike even now: they know that. They insist that there should be no victimisation. That, Sir, is a reasonable proposition and this is insisted in all labour troubles and there should not be any difficulty on the part of Government to accede to it.

Sir, they also want that all political prisoners may be kept in a certain barrack separated from ordinary criminals. Now, Sir, as a matter of fact they are huddled together with ordinary convicts who are really spying upon them. They want that they should be removed. They also want that the terrible hardship which is being inflicted on them for the last several years be also removed. Sir, the management of their own kitchen, cooking, food, reduction of labour, etc., can very well be acceded to. Removal of certain disadvantages, restriction to read and write, talking in free air, management of library and books, claims to medical treatment, are so reasonable that I fail to see how any civilised Government can possibly refuse them——

(At this stage the member having reached his time-limit, resumed his seat.)

Mr. D. H. WILMER: Mr. President, Sir, there are two questions for the consideration of this House involved in this resolution. First, the circumstances in which the late Mr. Harendra Nath Munshi died: secondly, the apprehension of further deaths owing to continued hunger-strike in the Dacca Jail. With regard to the first question, let it not be thought that the members of the group whom I represent, view this matter with no concern. We desire to express our deepest

sympathy with the relations and friends of the late Mr. Harendra Nath Munshi. We also express our regret that a young life should have been cut off before he had had an opportunity to convert himself into a law-abiding citizen and to become a useful member of the community. He is now dead and nothing can alter that position. Anything that I may have to say hereafter has no reference to him.

With regard to the circumstances that led to his death, I am afraid that the members of my group are not in possession of all the information which is apparently at the disposal of the mover and the seconder of this resolution. All we have seen about it is in the newspapers, and being careful men, we do not believe everything that appears in the daily press. With regard to the actual facts concerning the death of this gentleman, we prefer to wait to hear what the Hon'ble Home Minister says on the subject, because he, I presume, has the official report.

The second question is the apprehension of further deaths. Since I received a copy of this resolution about an hour ago, I have referred to the official reports of the proceedings of the Bengal Legislature since last August. Since August last, the question of hunger-strikes has been discussed in this House once. It has been discussed in the Assembly twice and pronouncements made by the Hon'ble Home Minister on the floor of the House, a copy of which is, I think, in the possession of most of the members of this House to-day, are a matter of great interest on what we are discussing to-night. May I have your permission to read a short paragraph: "Once the Government concede the question of repatriation, it is likely that the next demand will be after they have been brought back that they should be released. Supposing to-morrow a large number of detenus goes on hunger-strike and demands that they should be released immediately, what would be the position of Government? Government of this province will become impossible if things continue in this manner; in fairness to all I think it is only right and proper that once for all Government should make it clear that they are not going to surrender to threats of hunger-strike.

"There is another method by which hunger-strike can be prevented, that is by the members of this House and the public at large making it clear to the strikers that it is against the fundamental principle of Government to go on hunger-strike to seek redress of their grievances."

Finally, the Home Minister made this appeal: "Now I would make an appeal to the House. If there is going to be any loss of life, I submit that that responsibility will lie on those who encourage and inspire hopes in the minds of those who have gone on hunger-strike. The ideal course is to make it clear to them that this is not a question which any Government can accept, and they should accordingly be asked to give up hunger-strike and it is then only that hunger-strike will end."

That was on the 4th August 1937. I would ask this House to consider to-night what has been done on the advice so admirably given by the Home Minister. Has any attempt been made to persuade these prisoners of the folly and the wickedness of their action?

Mr. NARENDRA CHANDRA DATTA: Was any member or any relation of the prisoners given an opportunity to do it?

Mr. D. H. WILMER: I am asking every member of this House who has any knowledge on the subject to say if any attempt has been made to follow the advice of the Home Minister.

Mr. NARENDRA CHANDRA DATTA: It was not allowed by the Government.

Mr. D. H. WILMER: Since last August the Government have taken steps in answer to a popular demand with regard to the Andamans prisoners. They have been repatriated. Secondly, I am told, although I have no official information on the subject, that there has been reclassification which, I understand, means that the conditions of imprisonment or detention have been improved. In this matter Government are in the position of what we call in England "the man-at-the-wheel." Persons who are prepared to consider these matters on fair lines must trust Government until they have definite evidence that Government are not doing their duty. We must therefore wait till the Home Minister has dealt with the matter and I would submit for the consideration of this House that there is nothing to justify any support of this motion.

Mr. SACHINDRA NARAYAN SANYAL: We meet here to-day under the shadow of a great calamity and it is no use diving deep into issues and side-issues. The glaring fact is there that a noble soul has been dedicated as a protest against indignities in the jail.

Sir, this is not the first death of a political prisoner. There have been similar tragic occurrences in the past. This House has, therefore, a right to demand a sifting enquiry with a view to ascertaining whether in this case there has been any miscarriage of justice or the administration of the prison and the hospital requires thorough overhaul. I urge upon the Hon'ble Home Minister to realise that other lives also are at stake and that even a little delay is dangerous.

Now and then we hear of negotiations regarding settlement of the political prisoners' case. But no time should be lost now and a decision should be taken at once.

Before I close I appeal to the Hon'ble Sir Nazimuddin to respond to the call of humanity.

Babu Harendra Munshi has laid down his life and we are not prepared to sacrifice more noble souls.

Khan Sahib ABDUL HAMID CHOWDHURY: We all deplore the tragic end of a young soul as a result of hunger-strike in the Central Jail of Dacca but with all our sympathy for the departed soul, his relations and innumerable friends and admirers, I do not see any ground for a motion for adjournment. It is known to one and all of this House what is the aim and object of an adjournment motion—it is to criticise the action of Government and the policy of Government. Now I ask and I ask in all seriousness, having regard to the circumstances which have led the young man to lay down his life, if there is any justification for saying anything against the action or policy of Government. If we compare the policy adopted by this Government with that of the sister provinces especially where the Congress influence predominates, we find that the Government of Bengal have gone ahead of other provinces in the matter of release of political prisoners. Even the Congress provinces could not agree all on a sudden to release political prisoners belonging to all classes. At the outset, as far as I know, there was a demand only for the repatriation of these prisoners. Government acceded to that demand and then there was a further demand for the unconditional release of all political prisoners and for the repeal of all repressive laws and much has been made of the ill-treatment meted out to the political prisoners by the jail authorities. If I have followed the previous speakers aright, they have confined their attention mainly to the treatment of these prisoners in jails, for instance, the continuance of the system of "Sarkar salam" is one of their grievances. If my information is correct, that system has been abolished already.

We do not know what were the circumstances which led Babu Harendra Munshi to resort to the extreme measure of hunger-strike. We await an explanation from the Home Minister but so far as the inquest report goes, it shows that every effort was made to save the life of Babu Harendra Munshi. That inquest report is based on a joint examination by the Civil Surgeon and a well-known local practitioner. So I do not see any reason to disbelieve the report.

With these few words I again submit that the present is not a fit occasion for a motion for adjournment of the business of this House. It would be better to approach the Home Minister personally and let him know all the grievances so that he may take necessary action if there is any room for doing so. Without knowing what is wrong in the action or policy of Government, it is idle to blame the Government. In these circumstances, I not only oppose this motion, but I go still further and request the mover to withdraw it.

Mr. NAZIRUDDIN AHMAD: The motion for adjournment is, I submit, extremely unfortunate. It was only the other day that the Government, in response to public opinion and in view of a healthier political atmosphere prevailing, released no less than 1,100 prisoners who were detained without trial as a preventive measure. Mr. Gandhi came to Bengal and investigated into the cases of these detenus and as a result Government agreed to their release. With regard, however, to the prisoners who were then undergoing their sentences in the Andamans for having committed serious offences like robbery, dacoity and murder and duly convicted after being tried in a court of law, Mr. Gandhi issued a very significant press note to the effect that these convicted prisoners stood on a different footing and could not be released except when justified on a consideration of their individual cases. Mr. Gandhi made it clear that the attitude of Government of Bengal, with regard to these convicted prisoners, was right. Now, much has been said as to the loss of a valuable life. We are all really sorry for this loss, but may I ask the supporters of this motion as to who is responsible for this loss of life? To put it bluntly, is not this loss of life due to hunger-strike which some hon'ble members feel so much inclined to admire? I should think that a very safe, certain and effective way of saving life in these circumstances is to pursuade these convicted criminals to give up hunger-strike. If we are sincere in our feelings, honest in our thoughts and straightforward in our utterances, we should plainly and unequivocally ask these criminals to give up hunger-strike, and that would effectively and automatically save and preserve their valuable lives. If, on the other hand, we encourage these hunger-strikes in a responsible House like this, there will be no end of trouble. Grievances would be invented from day to day in a bewildering fashion which would be impossible to cope with and the situation will progressively and hopelessly deteriorate. Now the hunger-strikers have formulated a new and a preposterous demand that all prisoners who have been convicted of having committed serious and dastardly crimes, should be released absolutely unconditionally. Can this Government or any responsible Government in the world accede to an audacious request like this? That would be absolutely giving up and abdicating the authority of the Government and would throw the Government open to more and more trouble. One hon'ble member, Mr. Wilmer, has just now read a very relevant portion of a speech which was delivered by the Hon'ble Home Minister in another place, and has shown that concessions to their so called "demands" will never be appreciated in a proper spirit. Such concessions will be abused and will be treated as further grounds for more and more absurd "demands". Now, Sir, would these troubles cease if these recurring "demands" are acceded to? On the contrary, I venture to submit that there would be more trouble and more grievances invented day after day in a progressive manner. Therefore, I submit that in order to prevent these troubles, we should cease talking about them and

turn down the adjournment motion. With these few words, Sir, I oppose the motion.

The Hon'ble Khwaja Sir NAZIMUDDIN: Government extremely regret the unfortunate loss of life that has taken place most unavoidably —a loss of life which could not have been foreseen. There was nothing to show that the prisoner was going to collapse so suddenly as he did, and Government sympathise with the relations of the deceased. But at the same time they would like to point out that this death should be an object lesson to all those who go on hunger-strike and those who encourage directly or indirectly the continuance of hunger-strike or at least do not condemn and discourage the continuance of hunger-strikes. Hunger-strike, as is evident, is not a play thing. It is most serious, and the consequences are likely to be serious as has happened in this case. Therefore, I feel that it is the duty of everyone in this province to take every step that is possible to discourage the going on hunger-strike on the part of convicted prisoners. Mr. Wilmer has read out portions from my speech which I delivered in the Assembly in August last, and it will be seen if other portions are read that I practically foretold that if Government did not take a determined attitude on this question, hunger-strike would be of frequent occurrence. First we had the hunger-strike on the ground of repatriation and release. Now the hunger-strike is supposed to be for local grievances. What is there to prevent these convicted prisoners or ordinary prisoners even, not terrorist prisoners alone—following this example and going on hunger-strike whenever they find that whatever they demand is not being conceded by Government? It will be seen that as far as this unfortunate loss of life is concerned, it has been due directly to the hunger-strike. Later on I will read the report of the inquest and the post-mortem examination, and also place before the House the report of the Civil Surgeon who attended on him, and it will be clear from the facts stated therein—which I am going to state—that there was no question whatsoever of any neglect in the treatment or care of Harendra Nath Munshi. As a matter of fact, the death was not due to forcible feeding, but death was due because forcible feeding was not resorted to. I am very sorry that members of this House who are responsible men and are not in the same category as ordinary people—they are responsible men and specially members of the Bengal Legislative Council which is supposed to be a body of elder statesmen——

A member: Not elder statesmen, but elderly men!

The Hon'ble Khwaja Sir NAZIMUDDIN: Oh! I beg your pardon —which is supposed to be a body of elderly men, I am sorry that members of this House should make statements here without proper

verification and without being sure if those statements are correct or not.

Mr. LALIT CHANDRA DAS: You never care to reply to our questions on this subject.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, the first short-notice question on this subject was answered. After that a short-notice question was again put practically on the same lines as those which were answered, and that was the only reason why that short-notice question was not accepted. Besides, it asked for details which were then not available and could not be obtained in so short a time. The other short-notice question was not accepted because the adjournment motion had already come in and I felt that I would be in a better position to place all the facts before the House in the course of the debate rather than by answering questions on the floor of the House.

Now, as I was saying before, various statements have been made in this House for which there is no justification whatsoever—statements which cannot be proved and statements which, I am afraid, are hopelessly incorrect, and what is most deplorable is that the statements are of such a nature that not only do they convey a very wrong impression but they also contain serious allegations not only against the officials of Government but against Government also, and are, at the same time, likely to lead to deplorable results. Now, Sir, the first point on which I am very emphatic is the allegation made on the floor of the House by more than one speaker that Babu Harendra Nath Munshi was suffering from a weak heart and it was forcible feeding that caused his death. I submit, Sir, that if a man had been suffering from a weak heart the postmortem examination would reveal it. I have got the postmortem examination report with me—postmortem examination conducted by the Civil Surgeon of Dacca. It was a very fortunate circumstance—and I would give the credit here to the local officer who had made the suggestion originally that with the approval and consent of the Civil Surgeon, a non-official doctor should also be associated in the conducting of the postmortem examination. Government approved of this suggestion, and the Civil Surgeon also agreed, and the postmortem examination was conducted by the Civil Surgeon of Dacca and by Dr. Suresh Chandra Gupta, a well-known non-official medical practitioner of Dacca, and that report shows no abnormality of heart. That, Sir, is the first point. Secondly, that the death was due to heart failure brought about probably by starvation. Now, Sir, this postmortem report apart, the inquest report which I am going to read later on conclusively proves that these two statements that were made on the floor of this House have no basis or any foundation whatsoever. Firstly, the prisoner was not suffering from a weak heart. Secondly, death was not due to forcible feeding.

Now, Sir, there is another report which I would like to read out to satisfy members of this House as to what actually did take place as regards this question of forcible feeding. To make it more intelligible, before I read this report, let me read the report made by the Civil Surgeon of Dacca to the Superintendent of the Central Jail, Dacca, with regard to the forcible feeding of the prisoner. This is what he says—this is a report, dated the 29th January, 1938:—

"Reference your memo. of the 28th instant, I saw Babu Harendra Munshi at about 1 p.m. He is on hunger-strike since 21st January, 1938, and forcible feeding was tried from the 25th instant by the Medical Officer and the medical subordinates. It was found impossible, however, to keep the tube in the stomach. The hunger-striker informed me that the tube irritated his throat and brought about difficulty in breathing. As he refused to take his food in the normal way, I informed him that I was required to pass the tube and feed him. He said that he had no objection and allowed me to pass the tube, No. 11 catheter through the nose." I am not sure whether it was a No. 2 or No. 11 catheter. Then the report continues "Almost immediately he struggled violently and ejected the tube. I again passed it with some difficulty into the stomach owing to the struggling and introduced about 1 lb. of milk mixture. He struggled violently all through the feeding and had to be restrained to prevent the tube from coming out of the stomach. After the tube was withdrawn, he vomited some of the feed. He informed me that he does not want to be fed but wants to be allowed to die peacefully as the introduction of the tube is so distressing. When the patient does not struggle, the passage of the tube is easy, but it appears to set up a certain amount of spasm which leads to efforts at ejection. I informed him"—and that is the most important part of the report—"that a little local anæsthetic applied to the nose and pharynx would probably help matters, but he said that he could not allow this. If such violent struggling and spasm occurs every time the patient has got to be fed, it will make the procedure exceedingly difficult"——

Mr. LALIT CHANDRA DAS: Will you please read the report of the non-official visitor Mr. Amulya Chandra Guha, if you have it with you?

The Hon'ble Khwaja Sir NAZIMUDDIN: On what subject?

Mr. LALIT CHANDRA DAS: On this subject.

The Hon'ble Khwaja Sir NAZIMUDDIN: Well, Sir, I have not got that report with me here, but I do not think that there is anything which Mr. Guha has said which is contrary to these facts. I am practically certain on that point.

It will appear from the evidence of the inquest report—I am now reading from the inquest report—report meaning view of body, and it is supported by the postmortem examination "that the deceased had no bruises or injury or sign of any violence whatever to raise any suspicion as to the cause of death. Prisoner Harendra Munshi went on hunger-strike not on account of any personal grievance but in sympathy with the other terrorist prisoners on the 21st January." He was in Division III till 19th January but was given Division II on the same day and enjoyed the privileges. But yet he took it into his head to go on hunger-strike. He was regularly attended to by the medical officer and his assistant doctors from beginning to end. He was in his cell till 28th and his condition continued quite normally, only he was getting weakened as he would neither accept any food nor allow it to be introduced. He would not even take medicine except when persuaded. On 28th for constant watch and facility of treatment, he was removed to hospital and all the doctors in their turn attended him. Santosh Kumar Das, a convict attendant with four others, was constantly by his side. On this date as a measure of precaution, the Civil Surgeon was called in and an attempt was made to introduce some nourishment but it did not fully succeed. He was thus kept under observation and treatment day and night as required by circumstances. There was no sign of any approaching crisis except that of weakness which was, however, neither abnormal nor alarming. On the night of 29th, Dr. Makhanlal Ghose was in actual charge of the patient from 10-10 p.m. till 6-35 a.m. the time of his death. His evidence is—and he is corroborated by convict Santosh—that his condition indicated no change for worse during night. At 1 a.m. only hurried respiration and nausea were noticed. Dr. Ghose and his seniors met and gave medicine and it is in evidence that the patient felt better after it and he even himself declared it to be so. His condition took a critical turn all on a sudden at 6-10 a.m. when he passed three stools and collapsed by 6-35 a.m.

Having given all these facts and circumstances and the evidence my careful consideration, I am of opinion that there was none responsible for the death of Harendra Nath Munshi except himself. There was no maltreatment, no neglect of care and treatment on the part of the Jail Superintendent and doctors during the period of his hunger-strike. All that could reasonably be expected, was done by them to give him relief and save his life.

Death was obviously due to heart failure from exhaustion caused by refusal of food and nourishment. The post-mortem examination report of the Civil Surgeon is also in agreement as to this cause.

The post-mortem report is as follows: "In our opinion death was due to heart failure probably due to starvation."

Now, Sir, hon'ble members of this House will see from what I have stated that death was not due to forcible feeding but to insufficiency of forcible feeding and the prisoner was not suffering from a weak heart.

Now, I will take up the question of the cause of this hunger-strike. It will perhaps interest members of this House to learn that when these prisoners went on hunger-strike, the Superintendent of the Jail asked them to state in writing what were the reasons for their going on hunger-strike. I will read to the House the reasons stated in writing, the original of which——

(At this stage the Hon'ble Minister reached him time-limit.)

Will you permit me, Sir, in view of the utmost importance of the subject, to speak for some time more as I am sure, hon'ble members of the House are interested to know all the facts of the case.

Mr. PRESIDENT: I am sorry I cannot allow more than one minute as the rules are very strict that no debate shall exceed fifteen minutes' duration but the Hon'ble Minister may have the right to speak after the mover's final reply, if he so chooses.

Mr. E. C. ORMOND: I find in section 43(*4*) of the Rules and Standing Orders that except with the permission of the President no speech shall exceed 15 minutes——

Mr. PRESIDENT: I am not referring to that section, but I am referring to section 109(*2*) which specifically applies to adjournment motions.

Mr. E. C. ORMOND: And therefore your ruling is that the other section does not apply to this case.

Mr. PRESIDENT: That section applies at the time of final reply after the mover of the resolution has replied. The Hon'ble Minister in charge will have the right of final reply after the reply of the mover.

The Hon'ble Khwaja Sir NAZIMUDDIN: I have here in original the signed statement of these prisoners in which they have given the causes for their going on hunger-strike. In my reply I will read them out and I shall also show that Dr. Bhupal Bose sent a wire in which he stated that the reason for their going on hunger-strike was local grievances. Later on, I will deal with the question of local grievances and how far they are relevant, and all that I ask from members of this House is to give me a hearing. I am sure that they and the public at large are really interested in this question and it is advisable that they should know the exact facts as to how far the grievances are local, how far they relate to the province as a whole and to every jail, and how far they are reasonable.

Mr. HAMIDUL HUQ CHOWDHURY: I am glad that the question arising out of the death of the late Mr. Munshi has come before this House. I welcome it from this point of view that the House should give its verdict over this epidemic of suicides that are taking place from time to time and assess the responsibility which we have in the matter. I am in favour of emphatically declaring to-day and now, that we have been abetting this crime. It is a crime—nothing less than a crime to commit suicide. Whether you commit it by hunger-striking, or by the dagger or by any other means, it is suicide. The question is, are the grievances so acute that it inevitably appeals to every sufferer to commit suicide? Is it only a special case with the political prisoners that they suffer from these grievances? Is it not a fact that if there are these grievances, these are applicable to other prisoners as well? Why is it that a particular class of prisoners take this drastic step? I say it is not the grievances alone that can appeal to a man to commit suicide. It is the feeling that they are going to be made martyrs not only in this House but also from day to day in the newspapers that makes these impressionable young men commit suicide. Therefore we must assess the responsibility. These men are committing one of the worst crimes against society. Not only our own Islamic law but every law says that it is a crime, that no man has the right to take his own life, however real his grievances may be. Sir, we are inducing them to commit the crime. We are doing it here, we are doing it in the newspapers, on the floor of this and the other House. The sense that you are going to create in them is not that of ordinary convicts but martyrs for the cause of the nation who will live in the memory of the future generation. This appeals to them to take drastic action and to commit such crime against society. Therefore, Sir, I am in favour that the House should once for all decide here and now that for these grievances it shall not tolerate such crimes; it will stand against all sorts of encouragements either from this House or outside. Therefore I submit that immediately the other speaker has spoken, the question should be put and the vote of the House taken.

Mr. RANAJIT PAL CHOUDHURY: I thought I would not speak on the subject but my friend, Mr. Hamidul Huq Chowdhury, has put forth an argument which has marvelled me and marvelled some of my friends on this side. His argument has been that the reason of their going on hunger-strike is to become martyrs so that a lot might be made out of them after they die. This is an argument which I do not know whether my hon'ble friend, Mr. Hamidul Huq Chowdhury, really means. If he really means it, I wonder if he would have the conviction to become a martyr like that, if he would have the courage to do it.

A member: It is no courage at all; it is a disease.

Mr. RANAJIT PAL CHOUDHURY: Yes, it is a disease that very few people can have the courage to contract. This is not the first instance over here that adjournment motions have been moved merely to ask for redress, but I would appeal to the Hon'ble Home Minister to make a personal investigation into this matter. It would not mean very much to him. It is his home district. I would ask him to investigate why Dacca has been made a centre of these activities, and why steps cannot be taken to redress these grievances. I am sure if necessary steps are taken and if he does put in his personal attention to it, these hunger-strikes would become much more infrequent, and these adjournment motions would no longer be discussed in this House. With these few words I support the motion.

Mr. MESBAHUDDIN AHMED: I move that the question be now put.

Mr. PRESIDENT: The question before the House is that the question be now put.

The question was then put and agreed to.

Mr. NARENDRA CHANDRA DATTA: I have made it a point that the prisoner died and that he had a weak heart. But without taking care of that, forcible feeding was resorted to by people of Dacca Jail, and the result was his death. The Hon'ble Home Minister has read out the post-mortem examination report and what do we find? We find that probably it is due to starvation. The Hon'ble Home Minister should carefully read the words again "probably due to starvation." The word "probable" takes away all the force of the report. The gentleman who wrote the report was absolutely uncertain of the causes of his death, so he could not put it straight but said, probably it was due to starvation. It is our very sad experience and probably the experience of gentlemen who are interrupting me that the post-mortem examination is not always a sheet-anchor or a quotation from a religious script. These post-mortem examinations have been set at naught, rejected by courts in India and elsewhere. So this cannot be the only basis on which our arguments can be disregarded because it not only does not support the contention of the Home Minister but on the contrary it supports our contention, "Probably due to starvation" and he has also quoted the words that "he died of heart failure." Why? If he died of heart failure, the question is why the heart failed? It has not been explained. Under the circumstances and from what the Hon'ble Home Minister has stated to the House, it is clear that proper care and caution was not taken with regard to the life of this prisoner and probably it was due to the fact that the people who are in charge of the Dacca Jail are under the impression that if a political prisoner dies, they expect preferment in office—they will not be condemned but

they would get promotion for such an act. Of course we have been charged that by our action we are encouraging people to go on hunger-strike. In the beginning I made a statement that speaking from this side of the House, I can assure this House and also the Home Minister that we are not for hunger-strike. We are as anxious, if not more anxious, that there should be no hunger-strike, but at the same time we want that Government should not give sufficient cause for provocation so that this may be resorted to by people having no other means of redress. It is very easy to charge us with irresponsibility but the irresponsibility is patent on the face of the Government. It is not our duty to preserve their lives; it is the duty of Government and Government has failed in its duty. Let the Government answer before God and man whether they did their duty properly.

Another thing which you will find, Sir, is that those people who may be ultimately responsible for the death of this prisoner, are now witnesses in this case. There are many gentlemen here who are Public Prosecutors and who had decided criminal cases. They know that the persons who are being accused in a case, are not witnesses to be trusted. Who are these people? These people will be charged, if there be an enquiry, with neglect of duty and the Hon'ble Minister quotes their testimony to contradict us. Is it proper, is it reasonable, is it allowable?

A member: They are the only persons.

Mr. NARENDRA CHANDRA DATTA: There were many people. Dacca consists of 125,000 people. My charge was that respectable people and leaders of Dacca approached the jail authorities to interview them, to get them give up hunger-strike. I ask in all seriousness, why it was refused. I have not had any answer from the Home Minister. The Home Minister did not ask any leader in Bengal to go straight to Dacca so that these people might give up hunger-strike. On the last occasion he appealed to Mr. Sarat Chandra Bose and the latter sent telegram after telegram and the Hon'ble Chief Minister also sent telegrams to the Andamans and the prisoners there gave up hunger-strike. But no steps like that were taken in this instance; nor did the Home Minister leave Calcutta because the life was the life of a political prisoner. We always find that the Ministers resort to touring on any ground, on flimsy grounds; and this was an urgent matter and I am yet to know whether the Home Minister did leave for Dacca to save the lives of the other prisoners who are still hovering between life and death. If this is the treatment that we expect from a responsible Government, from the Ministers in an autonomous state, we are sorry that this is the thing which we did not want. I can again assure the Hon'ble Home Minister that we are not for resorting to hunger-strike, we condemn it; but we also condemn the action of the Government.

We have been told that we get facts from newspapers. Where shall we get facts? In other civilised countries, facts are collected by the public from newspapers and if there is any mis-statement in the newspapers, it is contradicted by a Government communiqué. Was this done here? Was this done in Bengal? So long as the papers are there, we have to read them to get facts in the absence of authenticated information. We cannot get any information from the Home Minister. My friend Mr. Lalit Chandra Das complained that he submitted a short-notice question to which no reply was made. As soon as the man died, Government could have published a communiqué but Government did not think it their worth while to do that because it was the life of a political prisoner. It did not matter in the least. This sort of indifference, I do not know, how to condemn. We are very old, probably I am one of the oldest members in this House and I do not like to make any sensation, but being a man acting always in sober mood, I have been impelled by conscience and sense of duty to voice the sentiments of the public that this should never be tolerated.

With these few words, Sir, I humbly submit to the House to consider the facts judiciously and conscientiously and come to a right decision because any wrong decision taken to-day will not help the opposition or us. It will spoil the chances of Bengal in future.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, the hon'ble mover of this motion more than once said that the Government should have saved the life of this prisoner. I should have thought that he ought to have known that none but Providence can save a person like that. I have shown that Government took every reasonable precaution and every reasonable care for the prisoner, but the inevitable happened because so it was ordained. Now, Sir, I have always maintained that if Ministers and leaders and members of this House were to run and persuade the terrorist prisoners to give up hunger-strike, we would have hunger-strike every week in Bengal. It was not possible, it was never done, and I am practically certain that I never requested Mr. Sarat Chandra Bose to send wire at that time. I am speaking from memory but as far as I remember, I did not request him. He asked that his wire should be allowed to be placed before the hunger-strikers. Then, Sir, thirdly, the most important point for consideration is, what was the cause of the hunger-strike? As I said I have not got time because it is a long document which I will have to read out. But at the time when they went on hunger-strike,—their written statements are there and it will be found that the majority of them laid stress on release, on repatriation, on repeal of repressive laws and not on local grievances. Only a few mentioned that, they put it at the bottom and that was not the main grievance. And as for the newspapers of Bengal, let me quote here, Sir, the "Amrita Bazar Patrika," dated 30th January, 1938. May I read, Sir, a portion from this. "It is needless to tell the Hon'ble Sir

Nazimuddin that it is never our intention to encourage the persistence of these convicts or in any way to incite them to any hasty or undesirable action, but we must make it plain that we do not look at the problem through bureaucratic spectacles and we want the provincial Government to consider the matter in a truly human spirit. The question is not of removing a grievance here or a grievance there of the repatriated political prisoners or of putting them in Division II but is one of setting them at liberty, so that they may have an opportunity of proving themselves to be good and peaceful citizens."

Now, Sir, that very same paper writes on the 1st of February 1938 again on Sunday last in its famous article "Sarkar Salaam." I will deal with it later on. Here no question of prestige is involved, no impossible or unreasonable demands are made. Unlike political prisoners elsewhere, the Dacca prisoners did not demand that all convicted political prisoners should be released. They did not resort to hunger-strike in pursuance of that demand. Now which one is the Government going to contradict? It is impossible to contradict all the misrepresentations made in the newspapers of Bengal.

Now, Sir, the important point again which I would like to impress upon the members of this House and especially the public at large is that of those grievances, major portion of them, that have been narrated in this House by the members and which have appeared in big headlines in the nationalist newspapers of Bengal, practically not one of them has been mentioned among the grievances that have been enumerated by the political prisoners on hunger-strike or the terrorist prisoners on hunger-strike. Practically none of them have laid stress on those complaints which have been mentioned in the newspapers and by the members of this House. As I said it will take me a long time to go through it. We will publish it in a communiqué form. I may mention that "Sarkar Salaam" was abolished from the Jail Code in 1936 and it has never been insisted upon in the Dacca Jail from a certain date in 1936. And in September last before the advisory board of visitors the complaints of the terrorist prisoners were considered. They enumerated their complaints before that board. They are twenty in number and "Sarkar Salaam" is not one of them. Then, Sir, the question is a gross misrepresentation of facts that they are taken to the case table for punishment. The newspapers have stated the facts to be that whenever a complaint is made, the prisoners are taken to the case table for punishment. That is how it has been put. The facts are that whenever a prisoner makes a complaint, he is taken to the office of the Superintendent and there he states his complaints, and that is called being taken to the case table. And also if a punishment is to be awarded for any breach of jail discipline and rules, they are placed before the case table before punishments are awarded. The two things have been combined

together and people have been given to understand that as soon as a prisoner makes a complaint, he is taken before the case table and punished. There is just one important thing which I would like the House to remember that the major portion of these twenty complaints refer to grievances of division III prisoners which were practically all removed as soon as these prisoners were placed in division II. The second point to remember is that not only these twenty complaints, but yesterday the hunger-strikers sent a representation again to the Home Minister in which they put down their local grievances. They are, I believe, thirteen in number and they came to me to-day by wire. I have got them with me and can read them out, but I doubt whether there will be sufficient time to allow me to do so.

Mr. LALIT CHANDRA DAS: Will you kindly read them out to us?

The Hon'ble Khwaja Sir NAZIMUDDIN: If the Hon'ble the President allows me time. The important point is that these grievances are not local. The major portion of them can be made grievances in every jail in Bengal—and what is more not only in every jail in Bengal but in every jail in India: they are common in every jail.

I will read this out—

"Local conditions to be immediately redressed—

(1) to be kept in one yard and in free association;

(2) gentle behaviour of the authority, medical and administrative;

Now, Sir, to be kept in free association is not only applicable to Dacca Central Jail but everywhere.

(3) educated and cultured officers should be placed in charge of political prisoners;

(4) right to make joint representations in all respects;

(5) separate political kitchen under their management including schedule within prescribed amount (meaning present allotment for diet should be given them to spend);

(6) removal of obnoxious and irritating restrictions superfluously imposed upon political prisoners to harass them;

(7) library of their own and books to be kept under their own management in their yard without interference from authority such as restrictions as to opening hours;

(8) facilities for physical exercises and games, outdoor and indoor;

(9) we wish to have cell doors unlocked throughout daylight hours;

(10) all frivolous harassing should be abolished;

(11) wider scope for use of personal cash such as toilet requisites, books, papers;

(12) Miss Suniti Chaudhury, female convict, should be given political female convicts for associates or be removed from this jail;

(13) adequate medical treatment with adequate hospital facilities;

(14) political prisoners debarred in this jail from benefit of present classification such as Daspur murder case prisoners whose co-accused in other jails are enjoying it should be reclassified immediately;

(15) nursing for sick by their political friends;

(16) better arrangements for interview, sitting together to be allowed;

(17) no victimisation;

(18) inquiry into all previous punishments on frivolous grounds;

(19) alteration of jail labour, we want light labour;

(20) any points omitted may be added later."

Mr. LALIT CHANDRA DAS: Will you please remove those grievances? I am sure that will put a stop to the hunger-strike.

Mr. KADER BAKSH: What is the meaning of "political kitchen"?

The Hon'ble Khwaja Sir NAZIMUDDIN: This apparently means that the allotment for diet should be handed over to them to spend as they like.

A member: The question may now be put.

The Hon'ble Khwaja Sir NAZIMUDDIN: Whatever may be the nature of these grievances I maintain that 90 per cent. of them are common to all jails and I do not want to go into their merits; but I do want to impress upon the House that 90 per cent. of these grievances can be made a grievance by every terrorist prisoner, every division I and II prisoner. These are questions which require looking into before Government can come to any decision; but Government certainly are not prepared to consider these questions as long as the hunger-strike continues. I can, however, give this assurance that if Government are satisfied that there have been irregularities, that prisoners have been punished where they should not have been, they will take steps to stop this. On the other hand I do not consider breach of jail discipline to be a frivolous ground for punishment, but if Government are satisfied that there had been unfair treatment of prisoners then, whether the prisoners

remain on hunger-strike or not, Government will look into the matter and redress the grievances. So far as the present grievances are concerned, they do not show that there has been any unfair treatment. Most of the complaints, which the members will know better when they are published, relate, as I have said before, to division III prisoners and they do not exist now: they have been removed. Most of the other grievances I have read out just now and they are not local grievances. I hope the House will now be satisfied that there is no cause for the continuance of this hunger-strike.

Mr. PRESIDENT: The question before the House is that this House do adjourn to consider an urgent and definite matter of public importance as noted below:—

"The death of the political prisoner, Mr. Harendra Nath Munshi in Dacca Jail owing to hunger-strike and apprehension of further deaths owing to continued hunger-strike in Dacca Jail."

The House divided.

AYES—8.

Choudhury, Mr. Moazzemali.	Maitra, Rai Bahadur Brojendra Mohan.
Das, Mr. Lalit Chandra.	Mookerjee, Mr. Naresh Nath.
Dutta, Mr. Narendra Chandra.	Pal Choudhury, Mr. Ranajit.
Goswami, Mr. Kanai Lal.	Sanyal, Mr. Sachindra Narayan.

NOES—26.

Ahamad, Mr. Naziruddin.	Ibrahim, Khan Bahadur Maulvi Muhammad.
Ahmed, Mr. Mesbahuddin.	Jan, Khan Bahadur Shaikh Muhammad.
Baksh, Mr. Kader.	Karim, Khan Bahadur M. Abdul.
Barua, Dr. Arabinda	Khan, Khan Bahadur Muhammad Asaf.
Chowdhury, Khan Sahib Abdul Hamid.	Khan, Maulana Muhammad Akrum.
Chowdhury, Mr. Hamidul Huq.	Laidlaw, Mr. W. S. G.
Cohan, Mr. D. J.	McFarlane, Mr. J.
D'Rozario, Mrs. K.	Ormond, Mr. E. C.
Elahi, Khan Bahadur S. Fazal.	Rahman, Mr. Mukhlesur.
Hamida Momin, Begum.	Shamsuzzoha, Khan Bahadur M.
Hossain, Khan Bahadur Saiyed Muazzamuddin.	Singh Roy, Mr. Saileswar.
Hossain, Mr. Latafat.	Stokes, Mr. H. G.
Huq, Mr. Syed Muhammad Ghaziul.	Wilmer, Mr. D. H.

The motion was negatived.

Adjournment.

The Council then adjourned till 2-15 p.m. on Tuesday, the 8th February, 1938.

Members absent.

The following members were absent from the meeting held on the 2nd February, 1938:—

(1) Chowdhury, Mr. Humayun Reza.

(2) Dutta, Mr. Kamini Kumar.

(3) Esmail, Khwaja Muhammad.

(4) Mookerji, Dr. Radha Kumud.

(5) Mukherji, Rai Bahadur Satis Chandra.

(6) Rashid, Khan Bahadur Kazi Abdur.

(7) Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

B. G. Press—1938-39—1407A—900.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Tuesday, the 8th February, 1938, at 2-15 p.m., being the seventh day of the First Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Accommodation of female political prisoners.

91. Rai BROJENDRA MOHAN MAITRA Bahadur: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether it is in his contemplation to accommodate all the female political prisoners in one jail?

(*b*) If not, why not?

MINISTER in charge of the the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) No.

(*b*) Lack of suitable accommodation in any one jail precludes such action.

Mr. NARENDRA CHANDRA DATTA: Is it not possible for Government to make suitable accommodation as early as possible?

The Hon'ble Khwaja Sir NAZIMUDDIN: No, Sir.

Detenus in village domicile.

92. Mr. MOAZZEMALI CHAUDHURY: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) what is the number of detenus interned in village domicile other than at home on the 20th January, 1938;

(*b*) how many of them are in village internment for a period exceeding three months;

(*c*) what are the minimum and maximum period of village internment of these detenus;

(*d*) whether the internment is due to any police report;

(*e*) if so, whether they have been informed of the allegations made against them by the Police; and

(*f*) whether it is a fact that detenus are interned in villages because they are considered less dangerous than other detenus who are confined in jails?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) The number constantly varies and the actual figures for January 20th are not available. On January 10th the number was 195.

(*b*) 106.

(*c*) to (*e*) No maxima or minima have been prescribed. Their internment is in accordance with the provisions of sections 2 and 9 of the Bengal Criminal Law Amendment Act, 1930.

(*f*) The degree of restraint imposed is what is necessary to meet the requirements of the individual case.

Prosecution of Sreemati Indumati Devi.

93. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether Sreemati Indumati Devi was prosecuted at Chittagong for the breach of the order of home internment;

(*b*) if so, on what date she was convicted and what were the terms of her conviction and sentence;

(*c*) whether it is a fact that the said Indumati Devi offered herself for arrest before the aforementioned prosecution because she got no reply to her representation to the Government;

(*d*) whether her said representation to the Government was to the effect that the order on her father, Mr. Golab Singh, Pleader, Chittagong, in whose house she was interned, restricting entry of young men to his house should be withdrawn as it entailed great hardship and inconvenience to him and that she even offered herself to be removed from his house and prayed also to interview the authorities at Calcutta;

(*e*) if the answer to (*d*) be in the affirmative, on what date her petition was made to the Government and on what date she was arrested for breach of the order of home internment;

(*f*) whether any reply was given to her said petition;

(*g*) if not, why no reply was given;

(*h*) if the answer to (*f*) be in the affirmative, whether the Hon'ble Minister will please state on what date it was sent;

(*i*) whether the Government have withdrawn the order upon Mr. Golab Singh, Pleader, Chittagong, restricting the entry of young men to his house;

(*j*) if so, on what date was the said order withdrawn;

(*k*) whether the Government pay Sreemati Indumati Devi any monthly allowance for her proper maintenance;

(*l*) if so, how much and from what time; and

(*m*) if not, why no such allowance is granted?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Yes.

(*b*) The 23rd September, 1937, in the lower court and 30th September, in the higher court. She was sentenced to simple imprisonment for the period already undergone by her.

(*c*) The motive she gave for her action was that her petition for an interview with the authorities in Calcutta had been rejected.

(*d*) She made representations to that effect.

(*e*) Her petition was dated the 14th June, 1937, and she violated the order on the 12th July.

(*f*) Not to the petition referred to in (*e*) above.

(*g*) The matter was under consideration when she violated the order.

(*h*) Does not arise.

(*i*) The District Magistrate has done so.

(*j*) On the 21st September, 1937.

(*k*) and (*l*) She was getting Rs. 10 per mensem in home domicile and her case is covered by the general orders of Government regarding allowances to released detenus.

(*m*) Does not arise.

Mr. KAMINI KUMAR DUTTA: In reply to the former question it was stated that she was getting Rs. 10 per mensem in home domicile. Is that allowance being continued now?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not think so, because she is now employed.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state what is her present employment?

The Hon'ble Khwaja Sir NAZIMUDDIN: Some kind of employment under the Calcutta Corporation.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to know that, as a matter of fact, she has got no employment under the Calcutta Corporation?

The Hon'ble Khwaja Sir NAZIMUDDIN: If she is not employed, she is entitled to allowance under Government order.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased, therefore, to see that action is taken for drafting the allowance?

The Hon'ble Khwaja Sir NAZIMUDDIN: I said, if she is entitled under Government orders to the allowance, then she is bound to get the allowance in due course.

Released detenu Mr. Susil Kumar Chose.

94. Mr. MOAZZEMALI CHAUDHURY: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether it is a fact that Mr. Susil Kumar Ghose was declared by medical authorities to have been suffering from tuberculosis of glands, bones and healed lesions of the lungs and intestinal complications while he was in jail for the last few years;

(*b*) what is the amount of personal, family and medical allowances granted to him after his release; and

(*c*) whether he applied to Government for any of these allowances?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Tubercular affection of the glands of the neck and axilla was diagnosed. Tuberculosis of bones was suspected but not confirmed by X'Ray examination and suspected tubercular infection of the lungs was negatived.

(*b*) and (*c*) No allowance has been paid after his release and no request for the same has been received by the Government.

Deaths of Detenus and Political Prisoners.

95. Mr. NARENDRA CHANDRA DATTA: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state the number of deaths among detenus and political prisoners in detention camps and in jails during the period from October, 1937, to January, 1938?

(*b*) Did they die from sudden attack of any disease or after suffering for a long time?

(*c*) Did the Government consult specialists in those cases? If not, will the Hon'ble Minister be pleased to state the reason for such omission?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) No deaths occurred among the detenus in camps or jails during that period. Among persons convicted of offences in connection with terrorism there were four deaths.

(*b*) and (*c*) Three were tubercular patients of long standing and one a leprosy patient of long standing. Of the tubercular patients one was subjected to electro-cardiography and the leprosy patient was examined and prescribed for in the School of Tropical Medicine. Consultation with specialists is undertaken when Government are advised by those in medical charge of the prisoner that such a course is necessary.

Death of Mr. Phanindra Lal Nandi.

96. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) what was the age of Mr. Phanindra Lal Nandi, a Chittagong Armoury Raid prisoner, at the time of his death;

(*b*) when the said prisoner was repatriated from the Andamans;

(*c*) of what disease he died, and when and in what place he first caught tuberculosis;

(*d*) whether Mr. Phanindra Lal Nandi has a history-sheet of his disease, and whether Government will publish it;

(*e*) who treated him in the Central Jail Hospital and when he was admitted into that hospital;

(*f*) whether Mahatma Gandhi saw him in the hospital or in jail; if so, on what date Mahatma Gandhi saw him; and whether Mahatmaji was assured by him that he was a full convert to the cult of non-violence;

(*g*) whether there is any special tuberculosis ward in the Central Jail Hospital and any special arrangement for expert treatment of the disease in that hospital;

(*h*) whether the relations of Mr. Phanindra Lal Nandi were duly and timely informed to enable them to come and see him before his death;

(*i*) whether he was cremated; if so, where and by whom;

(*j*) whether representations were made to the Government to set Mr. Phanindra Lal Nandi free; if so, by whom and when the earliest representation was made;

(*k*) why prisoner Mr. Phanindra Lal Nandi after repatriation on grounds of health was not set free in good time for him to take proper cure;

(*l*) whether Jadabpur has an asylum for tuberculosis patients; how distant is Jadabpur from the Central Jail; why it was not made possible for Mr. Phanindra Lal Nandi to be admitted there for him to take his chance;

(*m*) how many tuberculosis patients are there among the Andaman prisoners;

(*n*) of the Andaman prisoners so far repatriated, how many are suffering from acute diseases including tuberculosis; and

(*o*) whether the Government consider the desirability of setting free forthwith all political prisoners who are showing signs of getting or suffering from acute diseases?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Twenty-seven years.

(*b*) On the 27th March, 1937.

(*c*) Tuberculosis of the lungs. I have no information as to where he contracted the infection except that his paternal uncle and elder brother both died of the disease.

(*d*) Chapter XI of the Jail Code Rules was complied with in his case. Government will not publish his history-ticket.

(*e*) The Superintendent and Medical Officer. He was admitted to hospital in the Alipore Central Jail on the 27th March, 1937, and again on the 25th October, 1937.

(*f*) No.

(*g*) There is a special ward but no special arrangement for expert treatment.

(*h*) Yes.

(*i*) The body was made over to Mr. S. C. Bose for cremation.

(*j*) No such representations were made to the Government.

(*k*) The premature release of infectious tubercular convicts is not in the public interest and is forbidden by the rules.

(*l*) There is such an institution at Jadabpur situated about nine miles from Alipore. So far as I am aware his relations made no attempt to secure his admission.

(*m*) There are none from Bengal in the Andamans.

(*n*) Three.

(*o*) No.

Distribution of doles in Khoshbagh Tombs.

97. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether it is a fact that some years ago daily doles used to be distributed under Government supervision among the indigents of Khoshbagh and neighbouring places, where the tombs of Nawab Aliverdi Khan and Nawab Serajuddaula now stand?

(*b*) Will the Hon'ble Minister be pleased to state the reason for the discontinuance of such doles?

(*c*) Is it a fact that the cost of this charity used to be met from a certain landed property in the district of Rangpur?

(*d*) If so, what has happened to the property?

(*e*) Are the Government considering the desirability of restoring the old practice of doles in Khoshbagh tombs?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) No.

(*b*) to (*e*) Do not arise.

Persons under detention.

98. Rai BROJENDRA MOHAN MAITRA Bahadur (on behalf of Mr. Naresh Nath Mookerjee): Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) the number of detenus who were in jails and camps, under the Bengal Criminal Law Amendment Act on the 31st of December, 1937;

(*b*) the number of persons on the 31st December, 1937, who have been in continued restriction under the same Act—

(*i*) for less than one year,

(*ii*) for less than two years,

(*iii*) for less than three years,

(*iv*) for less than four years,

(*v*) for less than five years,

(*vi*) for less than six years,

(*vii*) for less than seven years, and

(*viii*) for more than seven years;

(*c*) the number of detenus who were in village domicile on the 31st December, 1937;

(*d*) the number of detenus in village domicile at present—

(*i*) for less than three months,

(*ii*) for less than six months,

(*iii*) for less than one year,

(*iv*) for less than two years,

(*v*) for less than three years, and

(*vi*) for more than three years;

(*e*) the number of detenus who were in home domicile on the 31st of December, 1937; and

(*f*) the number of such detenus in home domicile who are still there—

(*i*) for less than three months,

(*ii*) for less than six months,

(*iii*) for less than one year, and

(*iv*) for less than two years?

The Hon'ble Khwaja Sir NAZIMUDDIN: The information is not available and cannot be collected without an undue expenditure of time and labour which, Government regret, they are unable to undertake.

Travelling and halting allowances of Ministers.

99. Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister in charge of the Finance Department be pleased to state the reasons which led the Government to increase the travelling and halting allowances of the Ministers without consulting the Legislature?

MINISTER in charge of the FINANCE DEPARTMENT (the Hon'ble Mr. Nalini Ranjan Sarker): It has been decided to make certain amendments in the travelling and daily allowance rules applicable to Ministers. They will be published as soon as they are promulgated. It was not considered necessary to consult the Legislature before reaching a decision.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state why there is no answer to the question which has been put? The question relates to an increase, if any, in the travelling and halting allowances of Ministers, and the answer is that there are "certain amendments". What is the precise nature of these amendments? Is it a case of increase or decrease?

The Hon'ble Mr. NALINI RANJAN SARKER: There is a slight increase.

Mr. HUMAYUN KABIR: What is the extent of the increase?

The Hon'ble Mr. NALINI RANJAN SARKER: The increase is Rs. 10 per diem when travelling is done outside the province. The present rate is Rs. 25, whereas the former one was Rs. 15.

Mr. LALIT CHANDRA DAS: May we know the reasons which led Government to make these amendments?

The Hon'ble Mr. NALINI RANJAN SARKER: It was considered that Rs. 15 was not adequate when a Minister went outside the province, e.g., to such places as Delhi, Simla, Bombay, etc.

Mr. NARENDRA CHANDRA DATTA: When was the change made?

The Hon'ble Mr. NALINI RANJAN SARKER: The change was made from 1st November, 1937, so far as I remember. I may correct myself—it was from the 10th November, 1937.

Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister be pleased to state why Government did not consult the Legislature before coming to a decision?

The Hon'ble Mr. NALINI RANJAN SARKER: It was not considered necessary.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state why was it not considered necessary to consult the Legislature before reaching a decision?

The Hon'ble Mr. NALINI RANJAN SARKER: Salaries of Ministers cannot be fixed without consulting the Legislature, but so far as travelling allowances are concerned, there is nothing in the Act which makes it obligatory to consult the Legislature. They can be fixed by Government in exercise of their executive authority.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state whether Ministers or the Government are in a position to incur any expenditure from the public revenues of this province without the previous sanction of the Legislature?

The Hon'ble Mr. NALINI RANJAN SARKER: That sanction is obtained by means of demands for grants at the time of the budget and also when supplementary grants are voted.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state who amongst the Ministers have availed themselves of this recent increase in their emoluments, since November, 1937?

The Hon'ble Mr. NALINI RANJAN SARKER: I cannot say, but I think none has yet taken advantage of this increased rate.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state whether any rule can be promulgated making the operation of the new rules retrospective?

The Hon'ble Mr. NALINI RANJAN SARKER: I do not know of any reason why it cannot be done.

Autumn Exodus.

100. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Finance Department be pleased to state what has been the total amount of money spent for daily and travelling allowances and other costs which Government had to bear during the hill exodus in last Autumn for—

(*i*) His Excellency the Governor and his staff;

(*ii*) the Hon'ble the Ministers;

(*iii*) the Hon'ble the President;

(*iv*) the Hon'ble the Speaker; and

(*v*) the Secretaries?

(*b*) What has been the total sum spent for the hill exodus in last Autumn on account of all Government officials and what was the total amount spent at such a time last year?

(*c*) Who are the officials entitled to be included in the hill exodus?

(*d*) What principles govern the selection of these officials?

(*e*) Will the Government consider the desirability of stopping expenditure on account of hill exodus to Darjeeling?

The Hon'ble Mr. NALINI RANJAN SARKER: (*a*) (*i*) The approximate annual cost of the visits to Darjeeling of His Excellency the Governor, his staff and household is Rs. 32,500. Against this, however, there is an approximate saving of Rs. 52,000 on the Calcutta establishment. There is thus here not a source of extra expenditure, but a substantial set-off against the cost otherwise involved in connection with the move of Government to Darjeeling. The expenditure

on the Autumn visit was approximately half the amount mentioned above.

(*ii*) to (*c*), (*b*) and (*c*). A statement is laid on the table.

(*d*) The principles governing the selection of these officials are as follows:—

(*i*) In addition to the members of Government, the Member, Board of Revenue, the Secretaries to Government and the Deputy Secretary or Under Secretary in the Home Department, with a skeleton clerical staff to deal with urgent matters, go up on these trips as a matter of course. These all travel up and down at Government expense except the Member of the Board of Revenue, who goes at his own expense. None of these draws any halting allowance in Darjeeling.

(*ii*) Other officers in the Secretariat go up only when summoned for special work requiring their presence. When so summoned, they draw both travelling and halting allowance.

(*iii*) Heads of departments do not accompany Government to Darjeeling but they may be summoned by Government should their presence be required for the despatch of any particular business. When so summoned, they draw both travelling and halting allowance. With the permission, however, of the Hon'ble Minister concerned, they may each spend six weeks in Darjeeling in one or more visits at their own expense taking a tour clerk at Government expense.

(*c*) No; the matter is not under consideration, and I have made provision for the exodus in the budget for 1938-39.

Statements referred to in the answers to question No. 100.

		Rs.	
(*a*)	(*ii*) The Hon'ble Ministers ..	*8,206	(including personal staff).
	(*iii*) The Hon'ble the President ..	1,249	(including personal staff and Secretary).
	(*iv*) The Hon'ble the Speaker ..	888	ditto.
	(*v*) The Secretaries to Government	2,027	
(*b*)	Autumn trip of 1937 ..	*33,218	
	Autumn trip of 1936 ..	38,279	

* Excluding a number of railway requisitions for which bills have not yet been received.

LIST OF OFFICIALS AND OTHERS ENTITLED TO GO TO DARJEELING WHEN IT IS THE HEADQUARTERS OF THE GOVERNMENT.

(1) The Hon'ble Ministers.

(2) The Hon'ble the President, Legislative Council.

(3) The Hon'ble the Speaker, Legislative Assembly.

(4) The Secretaries to Government.

(5) The Under Secretary or the Deputy Secretary in the Home (Political) Department.

(6) The Secretary, Legislative Council Department (at his own expense for a total period of six weeks in the year).

(7) The Secretary, Legislative Assembly Department (at his own expense for a total period of six weeks in the year).

(8) Member, Board of Revenue (at his own expense).

The following heads of departments are allowed, with the permission of Hon'ble Minister concerned, to spend six weeks in Darjeeling in one or more visits, at their own expense:—

(1) The Commissioner of Excise and Salt.

(2) The Director of Agriculture.

(3) The Director of Land Records.

(4) The Director of Public Health.

(5) The Director of Public Instruction.

(6) The Inspector-General of Police.

(7) The Inspector-General of Prisons.

(8) The Inspector-General of Registration.

(9) The Registrar, Co-operative Societies.

(10) The Superintendent and Remembrancer of Legal Affairs.

(11) The Surgeon-General with the Government of Bengal.

(12) The Chief Engineer, Communications and Buildings.

(13) The Chief Engineer, Irrigation.

Transmission of funds of Scheduled Banks.

101. Mr. NARENDRA CHANDRA DATTA: (*a*) Is the Hon'ble Minister in charge of the Finance Department aware that the Scheduled Banks which have branches in different *mufassil* centres are very much handicapped in the matter of free transmission of funds to Calcutta, for the want of branches of the Reserve Bank of India or of the Imperial Bank of India in these *mufassil* centres as the District Treasuries not only charge ten annas per thousand even to the Scheduled Banks, but

also are not prepared to accept money for remittance on all days of the weeks?

(*b*) If so, does the Hon'ble Minister contemplate the desirability of amending the existing rules, so that the Scheduled Banks may transmit their funds to Calcutta through District Treasuries without any charge or at a reduced rate for one day in a week?

The Hon'ble Mr. NALINI RANJAN SARKER: I am not in a position at the moment to give a considered reply. I will look into the facts and see if anything can be done in the direction proposed.

Medical Examination of Schoolboys.

102. Mr. NARENDRA CHANDRA DATTA: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if he proposes to introduce in near future compulsory medical examination of boys in all primary and secondary schools of the province?

(*b*) If not, will the Hon'ble Minister be pleased to state the reasons thereof?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Minister in charge of the Education Department): It will not be possible to introduce compulsory medical examination of boys in all primary and secondary schools of the province until necessary funds for the purpose can be made available; but there is already in operation a scheme for medical inspection of school children in Government and aided secondary schools in Calcutta and two schemes are already under consideration which aim at (1) the medical examination of pupils in Government high schools and senior madrassahs outside Calcutta and in hostels attached to them, and (2) giving an annual grant to a limited number of schools to pay for the services of a local medical officer for conducting a thorough medical examination of school children every year.

Collegiate Schools.

103. Rai BROJENDRA MOHAN MAITRA Bahadur: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is a fact that some of the Government high schools continue to be called collegiate schools though they have ceased to be controlled by the Principal of the colleges to which they were originally attached?

(*b*) Is it a fact that some special status, educational or otherwise, was at any time contemplated for such schools to distinguish them from other classes of Government high schools?

(c) Is it a fact that all the Government high schools including collegiate schools give the same educational facilities at present and are regarded as having the same educational status though under different names?

(d) Is it a fact that discrimination is now observed between a collegiate school and a zilla or Government high school only in the rate of tuition fees payable by the students?

(e) If so—

(i) on what grounds; and

(ii) does the Hon'ble Minister consider the desirability of reducing the existing high rates of tuition fees realised in collegiate schools to the level of the ordinary rates obtaining in other Government high schools?

(f) If the retention of the higher rate of tuition fees in a collegiate school be considered necessary, does the Hon'ble Minister consider the desirability of giving an actually higher status to a collegiate school than to a zilla school by making provisions in the former for better educational equipments and more qualified and efficient teaching staff?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Minister in charge of the Education Department): The hon'ble member is referred to the answers given to question No. 3 for the current session of the Bengal Legislative Council.*

*In reply to a Question of practically same nature by Rai Brojendra Mohan Maitra Bahadur, the Hon'ble Minister said that no discrimination is observed between Collegiate schools and Zilla school or other Government High schools. But the rates of fees vary as between West and East Bengal and one Division and another as complete uniformity is impracticable owing to variation in local conditions.

Physical exercise and training in schools.

104. Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister in charge of the Education Department be pleased to state if he proposes to introduce in near future compulsory physical exercise and training in all primary and secondary schools of Bengal? If not, will the Hon'ble Minister be pleased to state the reasons thereof?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Minister in charge of the Education Department): At present physical exercise forms a part of the syllabuses of studies for primary and secondary schools in Bengal. It is compulsory for boys in secondary and primary schools and for girls in classes III to VIII in secondary schools. It is optional for girls in primary schools and in

classes IX and X of secondary schools. Games and physical exercises will be made compulsory for all in primary schools under the revised syllabuses to be introduced shortly.

Bridge over Megna at Ashuganj.

105. Mr. HAMIDUL HUQ CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state whether there has been any investigation made as to the effect of the railway bridge built at Ashuganj on the system of drainage served by the river Meghna?

(*b*) If so, will the Hon'ble Minister be pleased to state who made the investigation and what is the nature and the result of the investigation?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Kasimbazar): (*a*) Yes.

(*b*) The investigation was made by the Irrigation and Public Health officers of Government who were of opinion that the waterways and headways proposed were ample and that the construction of the bridge would not be detrimental to the health of the locality.

Stagnation of Rain Water in certain parts of Chittagong.

106. Mr. NUR AHAMED: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state whether he is aware of the heavy damage caused to the crop grown in the villages of Patiya, Anwara thanas, etc., of the Chittagong district, on account of stagnation of rain water year after year since the construction of the Doahazari line of the Assam-Bengal Railway?

(*b*) If so, is the Hon'ble Minister contemplating to take such steps as he thinks proper to remove this grievance of the people?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar: (*a*) I am aware of the occurrence of floods in the areas in question. Whether this is due to the construction of the railway line or not is under investigation.

(*b*) Yes, when the investigation, now proceeding, has been concluded.

Bridge over the Brahmaputra at Pandu.

107. Mr. HAMIDUL HUQ CHOWDHURY: (*a*) Is the Hon'ble Minister in charge of the Communications and Works Department aware

that the Eastern Bengal Railway authorities are contemplating the investigation of a proposal for the building of a bridge over the Brahmaputra at Pandu?

(*b*) Does the Hon'ble Minister propose to make a full investigation as to the effect such a bridge may have over the watercourse and the drainage of water by the river in Bengal and make necessary representation to the authorities when occasion arises?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar: (*a*) and (*b*) Yes.

Irrigation Canals in Murshidabad.

108. Rai SURENDRA NARAYAN SINHA Bahadur: (*a*) Is the Hon'ble Minister in charge of the Communications and Works Department aware that some survey was made for ascertaining the probability of cutting some irrigation canals in Rarh area in the district of Murshidabad?

(*b*) If the answer to (*a*) be in the affirmative, will the Hon'ble Minister be pleased to state whether the survey has been completed?

(*c*) If so, will the Hon'ble Minister be pleased to state when the work of the canal will begin?

(*d*) Will the Hon'ble Minister be pleased to state whether there will be any new taxes or rates levied on the agriculturists to meet the running cost for the same?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar: (*a*) Yes.

(*b*) The field work of the contour survey has been completed and the plotting is in progress.

(*c*) The question of constructing a canal will be considered after the survey is completed.

(*d*) Yes, if an irrigation canal is constructed.

Certain place of worship of Hindus in Bogra khas mahal.

109. Khan Bahadur MOHAMMAD IBRAHIM: (*a*) Is the Hon'ble Minister in charge of the Revenue Department aware of the fact that a certain plot of land in Bogra district *khas mahal* which was being used by the Hindus as a place of worship from time immemorial, has been in *pattan* to one Kismatulla Mondal, a Muhammadan?

(*b*) Have the Hindus been deprived of their long standing right of worship as a result of this?

(*c*) Has this created consternation among both the Hindus and Muhammadans, lest the long standing peace and friendliness between the two communities might be greatly disturbed?

(*d*) If so, is the Hon'ble Minister contemplating to cancel the *pattan*?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy: (*a*) No.

(*b*) to (*d*) Do not arise.

Certain grazing fields and burial land in Bogra khas mahal.

110. Khan Bahadur MOHAMMAD IBRAHIM: (*a*) Is the Hon'ble Minister in charge of the Revenue Department aware of the fact that many vast sandy grazing fields situated in the *mouzas* of Kandi, Palibari, Vadsa, Paikar and Daria under the Bogra district *khas mahal* which were being used by the *khas mahal* tenants by the neighbouring fifty or sixty villages from time immemorial as grazing fields and particularly plot No. 187 which the Muhammadans had been using as a burial ground from time long gone by, have recently been let out by the present manager exclusively to Babu Jatindra Kumar Ghose?

(*b*) If the answer to (*a*) be in the affirmative, is the Hon'ble Minister contemplating to cancel the lease of grazing fields and burial grounds?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) Only a single plot of fallow land which seems to have been used as pasture land in the past and where it is likely that a few Muslim dead bodies had been buried was settled recently.

(*b*) Yes.

Realisation of Rent.

111. Khan Bahadur MOHAMMAD IBRAHIM: (*a*) Is the Hon'ble Minister in charge of the Revenue Department aware that the present manager of the Bogra district *khas mahal* is taking recourse to the certificate procedure and realising rents by the sale of agricultural crops and of the cattle of the tenants?

(*b*) If the answer to (*a*) be in the affirmative, is the Hon'ble Minister contemplating to pass necessary orders to stop the realisation of rents by the certificate procedure?

The Hon'ble Sir BIJOY PRASAD SINGH RAY: (*a*) A very limited use has been made of the certificate procedure. In execution proceedings there has been no sale of crops, and sale of cows and other movables has taken place in only four instances.

(*b*) No, but steps have been taken to limit its use. A copy of the instructions issued in this connection has already been laid on the Library table in answer to question No. 28 asked by Mr. Nur Ahamed on the 25th January, 1938.

Honorarium to the officers conducting Gariahata Excise Case.

112. Khan Bahadur ATAUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Forests and Excise Department be pleased to state—

(*i*) whether it is a fact that some Excise Officers, engaged in conducting the Gariahata Excise Case, have been paid rewards in the shape of honorarium;

(*ii*) if so, who are these officers and how much has been paid to each; and

(*iii*) when such payments were made?

(*b*) (*i*) Does the Hon'ble Minister approve of the principle of rewarding officers before the disposal of the case?

(*ii*) Is there any precedent in the Excise Department in the matter of payments of rewards or honorarium before the disposal of a case?

(*c*) If the answer to (*a*) (*i*) be in the affirmative, will the Hon'ble Minister please state—

(*i*) why there was such a hurry in paying rewards or honorarium in this particular case;

(*ii*) what special work was done by these officers for which rewards have been paid; and

(*iii*) whether the Hon'ble Minister will be pleased to lay on the table copies of the depositions including cross-examinations of the officers so rewarded?

(*d*) (*i*) What is the total amount of money spent up to date in connection with the Gariahata Excise Case?

(*ii*) What amounts of travelling allowance have been drawn by each officer engaged in this case?

(*iii*) Has any motor hire been drawn by any officer from contingent grant?

(*iv*) If so, who are these officers?

(*v*) Do these officers draw any motor car allowance?

(*e*) (*i*) Is it a fact that a Deputy Superintendent of Police and two Inspectors were deputed to the Excise Department to help the investigation of the case?

(*ii*) If so, will the Hon'ble Minister be pleased to lay on the table a copy of their report?

MINISTER in charge of the FORESTS and EXCISE DEPARTMENT (the Hon'ble Mr. Prasanna Deb Raikut): As the case is still *sub judice*, therefore it is regretted that the information cannot be furnished.

Mr. PRESIDENT: The Chair has, on more than one occasion, drawn the attention of the Hon'ble Ministers that if any of the questions, in their opinion, offends against any Rules and Standing Orders, they are welcome to represent their views to the Chair, before the question comes up in the House, but they are not to usurp the function of the Chair and to state that the case is *sub judice* in reply to questions. As a matter of fact, in this case, the question is clear. Khan Bahadur Ataur Rahman wants to know whether certain Excise Officers, connected with the investigation of the Gariahata Excise Case, have been given rewards, and, I think, it has nothing to do with the case itself. There was no representation to the Chair that the matter relating to the question was *sub judice*.

The Hon'ble Mr. PRASANNA DEB RAIKUT: The difficulty is that all these relate to the case itself.

Mr. PRESIDENT: Suppose in a question a member enquires about the expenses incurred by Government in conducting the case. I hold such a question is admissible though the case may be pending. When I was a member of the Central Legislature, I know that a question was admitted in connection with the cost of the Meerut Conspiracy Case, and the President held that the cost had nothing to do with the case itself and there was no objection to a reply being given. In this case the hon'ble member wants to know whether certain Excise Officers were given rewards and it has nothing to do with the case itself.

The Hon'ble Mr. H. S. SUHRAWARDY: May I submit, Sir, with your permission that payment of rewards may have some bearing on the suit, and some value will have to be attached to the evidence of the witnesses: what will the Magistrate think about it?

Mr. PRESIDENT: Some Excise Officers have been paid rewards.

The Hon'ble Mr. H. S. SUHRAWARDY: They are witnesses.

Mr. HUMAYUN KABIR: Are we to understand that the Hon'ble Minister wants us to understand that all these questions relate to the case in question. If he looks at (*b*) (*i*) and (*ii*) he will find that there is no relevancy to the case which is *sub judice*.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, it is not for me to reply, but inasmuch as I raised that point which Mr. Humayun Kabir is stressing, I would like to explain that one or two things in this question certainly have bearing on the suit itself, as the officers are witnesses in the suit. If you will please see question (*c*)(*iii*), where it is said, "whether the Hon'ble Minister will be pleased to lay on the table copies of the depositions including cross-examinations of the officers so rewarded?" you will find that it makes it quite clear that it has reference to witnesses.

Mr. PRESIDENT: The Chair takes exception that such matters were not represented to the Chair before.

The Hon'ble Mr. H. S. SUHRAWARDY: May I, at this stage, express my regret in advance that a similar thing happened in my answer to a question. I express regret in advance so that I may not be rebuked.

The Hon'ble Khwaja Sir NAZIMUDDIN: May I submit, Sir, in this connection that as far as questions that are *sub judice* are concerned, I have got a short-notice question which I have accepted and submitted a reply. May I have your permission to reply to any supplementary questions in connection therewith to-morrow.

Mr. PRESIDENT: Yes, you can.

Mr. HUMAYUN KABIR: With regard to this question, will the Hon'ble Minister be pleased to reply to the portions which do not refer to the case *sub judice*?

The Hon'ble Mr. PRASANNA DEB RAIKUT: The whole question refers to a case *sub judice*.

Mr. HUMAYUN KABIR: Are we to understand that all the different elements in the question refer to a case which is *sub judice*?

The Hon'ble Khwaja Sir NAZIMUDDIN: I think, Sir, it will be better if you will allow all these questions to be taken up later on.

Mr. PRESIDENT: Yes.

Mr. HUMAYUN KABIR: Yes, that will satisfy us.

Cases of Embezzlement in the Co-operative Department.

113. Khan Bahadur MOHAMMED IBRAHIM: Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state—

(*a*) the number of cases of embezzlement in the Co-operative Department since 1934;

(*b*) the amount involved in these embezzlements;

(*c*) the number of—

(*i*) Caste Hindus,

(*ii*) depressed class Hindus, and

(*iii*) Muhammadans,

involved in these cases;

(*d*) the number of persons convicted, with the place of the society concerned;

(*e*) whether the misappropriations were due to any defect in the management of the department; and

(*f*) if so, what steps have been taken to remedy the defects?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) Seven cases.

(*b*) Rs. 2,92,002.

(*c*) The information cannot be supplied on a communal basis.

(*d*) Altogether thirteen persons were convicted either by local Magistrates or Judges at Calcutta, Midnapore, Bankura, Hooghly, Barisal and Chandpur where the banks operate, but appeals against almost all the convictions are still pending.

(*e*) No, except in one case which is being investigated by the department.

(*f*) Additional safeguards against defalcation have been prescribed by the department and arrangement is being made for running audit of all Central Banks and important urban banks throughout the year so far as is possible with the present staff.

Khan Bahadur MOHAMMED IBRAHIM: Will the Hon'ble Minister be pleased to state how many amongst the convicted prisoners are Muhammadans and how many from scheduled castes?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Is it your ruling, Sir, that I should answer this question? I said in my reply

to question 113(*c*) that the information could not be supplied on a communal basis.

Khan Bahadur ATAUR RAHMAN: May I enquire why this information cannot be supplied? What is the objection?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: There is neither a Muhammadan nor one from the depressed class. All the thirteen belong to the caste Hindus.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister be pleased to state whether in every case of defalcation, Government proceeded criminally against the defalcators?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I have given you the answer already. The cases were tried by Judges or Magistrates and except in two cases the accused have been convicted and their appeals are pending before the appellate courts.

Government grant to Co-operative Banks.

114. Khan Bahadur MOHAMMAD IBRAHIM: (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state whether it is a fact that with a view to reducing the interest payable by the members of the rural societies, the Government have placed at the disposal of the Bengal Provincial Co-operative Bank, a sum of Rs. 24 lakhs to be received in 12 years at the rate of 2 lakhs per year?

(*b*) Is it a fact that instead of utilising the amount for reducing the interest of the rural members, the said Provincial Bank is contemplating to utilise the amount for making good the loss of Rs. 24 or 25 lakhs sustained by it in the Jute Sale Societies?

(*c*) If so, is the Hon'ble Minister considering the desirability of stopping the payment of the amount to the Provincial Bank and distributing the amount rateably on the working capital of all the Central Co-operative Banks of Bengal?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: (*a*) and (*b*) The hon'ble member is referred to the record of proceedings in the Legislative Council on 3rd December, 1936, wherein it is stated that the purpose of the subsidy is two-fold—to enable the Provincial Bank to make good the losses incurred over the failure of the Jute Sale and Supply Societies and to enable the Provincial Bank to make some remissions to societies in the matter of arrears of interest.

(*c*) Does not arise.

Working hours in Firms and Banks.

115. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Is the Hon'ble Minister in charge of Commerce and Labour Department aware that many firms and banks in Calcutta and in the *mufassil* towns make their employees work for ten or twelve hours or even more per day?

(*b*) Does the Hon'ble Minister consider the desirability of fixing the working hours of clerks, salesmen, peons and other employees of firms and banks and penalising work beyond the working hours?

MINISTER in charge of the COMMERCE and LABOUR DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): (*a*) I have no knowledge of this.

(*b*) I have now a Draft Bill under my consideration to regulate the hours of employees in all kinds of shops. I hope to be able to proceed with it next session.

I am not aware that there is any need for such regulation in banks and firms other than shops. I am prepared to receive representations from organised bodies, if there is any real cause for dissatisfaction.

Grants for Muhammadan and Female education.

116. Khan Bahadur MUHAMMAD ASAF KHAN: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether the grants specified for Muhammadan education and female education to primary schools in Bengal, as sanctioned under Bengal Government Order No. 1575 Edn., dated the 4th December, 1916, out of the Darbar Grants for popular education throughout India under order of the India Government are still being given to those classes of schools for which only the grants were originally intended as a measure of giving special encouragement?

(*b*) If so, are the same grants still being distributed among those classes of schools in all the districts in Bengal and in Rangpur in particular?

(*c*) With the establishment of District School Boards in some of the districts in Bengal, have those grants been amalgamated with other general grants for primary education?

(*d*) If so, will the Hon'ble Minister be pleased to quote the orders of the India Government as well as of Bengal Government nullifying or revoking the previous orders sanctioning the above grants for Muhammadan and female education in primary schools as originally intended?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Minister in charge of the Education Department): (*a*) Grants sanctioned in Government Order No. 1575Edn., dated the 4th December, 1916, for Muhammadan education and female education are still being given as separate grants to those classes of primary schools for which the grants were originally intended in those districts where District School Boards have not been established.

(*b*) and (*c*) These grants are not now separately distributed but have been amalgamated with other grants by Government in the district of Rangpur and other districts where a District School Board has been established.

(*d*) Section 37(*1*)(*i*) and (*ii*) of the Bengal (Rural) Primary Education Act, 1930.

Conveyance to Ghatal and Jhargram.

117. Rai MANMATHA NATH BOSE Bahadur: Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state—

(*a*) whether the Hon'ble Minister is aware of the fact that the river passing through the Ghatal town is not fordable by any wheeled conveyances;

(*b*) whether the Hon'ble Minister is aware of the fact that Jhargram is not approachable throughout the year from any other sister subdivision due to interception of a river;

(*c*) whether it is a fact that the removal of the difficulty would facilitate inter-district communication; and

(*d*) whether there is any contemplation to remove this difficulty?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar:

(*a*) and (*c*) Yes.

(*b*) The road from Jhargram to Midnapore is intercepted by the river Cossye which is unbridged at present.

(*d*) The construction of a bridge over the Cossye near Midnapore has been sanctioned. There is as yet no sanctioned scheme to bridge the river Selai at Ghatal.

Rai MANMATHA NATH BOSE Bahadur: Will the Hon'ble Minister be pleased to state if there is any likelihood of any bridge being constructed over the Selai river within a short time?

The Hon'ble Maharaja SRISHCHANDRA NANDY, of Kasimbazar: Before the comprehensive scheme which is being prepared by the Special Officer is ready and considered by the Board of Communication, nothing can be said at the present moment.

Sea-cunny.

118. Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state—

(*a*) whether there exists any bar to Hindus getting themselves trained as a sea-cunny by any legislation either provincial or central;

(*b*) what authority has been invested with the power to select persons for being trained as sea-cunnies;

(*c*) the names of the person or persons who constitute that authority;

(*d*) whether Hindus are considered unseaworthy or ill-qualified to undertake such duties;

(*e*) whether it is a fact that licensed Muslim *serangs* raise objection to Hindus being recruited as sea-cunnies;

(*f*) if the answer to (*e*) be in the affirmative, whether steps should be taken immediately so that such objections may be overcome; and

(*g*) if the answer to (*e*) be in the negative, whether advertisements should forthwith be issued to the effect that Hindus will be henceforth recruited and trained as sea-cunnies?

The Hon'ble Mr. H. S. SUHRAWARDY: This is a central subject and not within the purview of the Local Government.

Realisation of penalty from defaulting proprietors.

119. Mr. NUR AHAMED: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state if he has made any enquiry from the Collectors as to whether they have been more lenient in realisation of penalty from defaulting proprietors since the issue of his instructions? If not, does the Hon'ble Minister intend to make an enquiry into the matter?

(*b*) Is the Hon'ble Minister aware that the penalties are still being realised at the heavy rates as before and that his instructions for lenient treatment are not being followed?

(*c*) Does the Hon'ble Minister contemplate the desirability of issuing some definite circular relating to the realisation of penalties from defaulting proprietors, fixing the rates of penalty between 6¼ per cent. at the lowest and 10 per cent. at the highest?

(*d*) Is the Hon'ble Minister aware of the fact that at the revenue sale, advertised to be held in the month of January, 1938, penalty at the rate of 40 per cent., 25 per cent. and 15 per cent. has been realised?

(*e*) Does the Hon'ble Minister intend to take some immediate effective steps to prevent the realisation of penalty at such heavy rates in future?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) No such general enquiry has been made from Collectors.

(*b*) No, but enquiry will be made.

(*c*) and (*e*) These matters will be examined in consultation with the Board of Revenue.

(*d*) No.

Supersession of Mr. H. F. P. Mahar in the Bengal Excise Service.

120. Khan Bahadur ATAUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Forests and Excise Department be pleased to state who is at present holding the selection grade in the Bengal Excise Service (Senior) and from which date he has been given this grade?

(*b*) Is it a fact that the same officer was considered unfit when Babu Hem Chandra Dey, a junior man to him, was promoted to the grade of Deputy Commissioner only a few months ago?

(*c*) Is it also a fact that the same officer was considered unfit to hold the post of this selection grade when the same was given to Captain G. D. Hoskins, another man junior to him, at present Collector of Excise, Calcutta?

(*d*) What was the justification to appoint the officer in the selection grade after his supersession by two of his junior officers and on the lapse of a few months only?

The Hon'ble Mr. PRASANNA DEB RAIKUT: (*a*) Mr. H. F. P. Mahar, with effect from the 16th November, 1936.

(*b*) Babu Hem Chandra De was promoted in preference as he was considered more capable.

(*c*) Captain G. D. Hoskins was also promoted for reason similar to that mentioned in the reply to clause (*b*) above.

(*d*) Because it was considered unfair to supersede him further having regard to his record of service and that of those junior to him.

Prohibition.

121. Khan Bahadur ATAUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Forests and Excise Department be pleased to state whether it is a fact that the Chief Minister stated in the Assembly that he would introduce prohibition in the Province of Bengal?

(*b*) Is it a fact that cheaper country liquor has recently been introduced for increasing the consumption and attracting the uninitiated?

(*c*) Is it a fact that for the purpose of increasing the sale of liquor, hours of sale have been extended in many shops?

(*d*) Is it a fact that for the purpose of extending the time of sale of liquor, the Commissioner has crippled the Licensing Board's power of the control over the hours of sale and assumed that power in himself?

(*e*) Is it a fact that the officers who could show increased sale and thereby increased revenue, are complimented by the Excise Commissioner?

(*f*) Has the declared policy of Government, namely, "maximum of revenue with minimum of sale" been revised?

(*g*) Is it a fact that the restriction of supply of opium to the vendors has been withdrawn in order to effect increase of sale?

The Hon'ble Mr. PRASANNA DEB RAIKUT: (*a*) Yes; the Hon'ble Chief Minister declared "prohibition" to be the goal and announced that he would try to experiment in one or two areas as a beginning.

(*b*) No; the introduction of cheaper country liquor was intended only—

(*i*) to induce persons accustomed to strong liquor to take weaker and less intoxicating beverages; and

(*ii*) to check illicit distillation which was primarily due to the high cost of licit liquor.

(*c*) No; adjustment of the hours of sale was intended to offer facilities for purchasing licit liquor, to the consumers belonging to the labouring classes who generally work from sunrise to sunset and who would otherwise either shorten their hours of labour or get their liquor from illicit sources.

(*d*) No. The power of prescribing the hours of sale was withdrawn from the Licensing Boards in October, 1936, to enable the Excise Commissioner to secure as far as possible uniformity in different areas.

(*e*) Only in so far as such increased sale indicates a decline in consumption of illicitly manufactured liquor.

(*f*) The policy is still "maximum of revenue with minimum of consumption" to which has to be added the policy of experimenting in prohibition.

(*g*) The system of restricted supply of opium to the shops has been withdrawn only in certain districts where smuggling is suspected. A review of the situation has been undertaken by Government as they do not desire to do anything to encourage the consumption of opium.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state whether Government anticipate any drop in the revenue if prohibition is accepted?

The Hon'ble Mr. PRASANNA DEB RAIKUT: It is not possible to say at the present moment.

Violation of Forest Laws.

122. Mr. NUR AHAMED: Will the Hon'ble Minister in charge of the Forests and Excise Department be pleased to state—

(*a*) how many prosecutions were instituted in the years 1932, 1933, 1934, 1935 and 1936 respectively in the district of Chittagong—

(*i*) for violations of forest laws and regulations, and

(*ii*) for offences committed under the Forest Act and rules and regulations promulgated thereunder;

(*b*) of these prosecutions—

(*i*) how many ended in conviction,

(*ii*) how many ended in acquittal, and

(*iii*) how many were withdrawn; and

(*c*) what was the total amount of fines realised in each of the years?

The Hon'ble Mr. PRASANNA DEB RAIKUT: A statement is laid on the Library table. The figures are for financial years. Figures for calendar years are not readily available.

The figures relating to (*c*) represent the amount of compensation realised by the Forest Department. Figures of fines realised by courts are not available.

Public pasturage in the Reserved Forest of Chittagong.

123. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Forests and Excise Department be pleased to state—

(*a*) whether the people of Chittagong from time to time petitioned the Government in the Forest Offices there to give them free public pasturage in the reserved and protected forests of Chittagong;

(*b*) whether any free public pasturage has been granted to the people of Chittagong; if not, on what grounds was their prayer not acceded to;

(*c*) whether it is a fact that the people of Chittagong from time immemorial had such pasturage right which the Forest Officers in the reserved and protected forests subsequently curtailed;

(*d*) whether the Hon'ble Minister is aware of the absolute necessity of such free public pasturage and will consider the desirability of granting it in Chittagong reserve forests;

(*e*) whether the system of imposing penalty for non-carriage of permits either through mistake or inadvertance is being rigorously pursued by forest officials in Chittagong; if so, what have been the total imposition of such fines during the years 1935—1937, year by year, and whether the Hon'ble Minister contemplates to devise means to soften the rigour, if any;

(*f*) whether it is a fact that no member of a joint family other than the person in whose name the licence stands is allowed the use of the licence; if so, whether the Hon'ble Minister contemplates to permit all the members of a joint family to use the same licence; if not, why not;

(*g*) whether it is a fact that since April, 1937, the rate of taxes on the licence has been enhanced; if so, whether the Hon'ble Minister considers the desirability of reducing the same to original level; if not, why not;

(*h*) whether Mr. E. A. Modder, I.F.S., Conservator of Forests, Bengal, received a deputation of the leading citizens of Chittagong in November, 1937, and heard their grievances in respect of the use of the reserved and protected forests of Chittagong;

(*i*) whether Mr. Modder has reported to the Government about the deputation; and

(*j*) whether the Hon'ble Minister considers the desirability of redressing their grievances at an early date?

The Hon'ble Mr. PRASANNA DEB RAIKUT: (*a*), (*c*) and (*g*) No.

(*b*) No such free right of pasturage can be given without interfering with forest conservancy.

(*d*) The question of deforesting certain areas which are on the edge of the Reserved Forest and surrounded by cultivation, is under consideration of Government.

(*e*) The system is being followed, but not with undue rigour.

The fines realised are—

	Rs.	a.	p.
1935	10	8	0
1936	13	0	0
1937	77	0	0

Government have no information that the present system has caused undue hardship to any one, but they have the whole system under review and are willing to receive any concrete suggestions.

(*f*) Only the person in whose name the pass stands can use it. No change in this direction is contemplated. Under the system suggested by the questioner, checking would be very difficult, and there would be great loss of revenue.

(*h*) Yes.

(*i*) and (*j*) Yes, Government have the whole question under examination, and intend to remove, as far as practicable, any legitimate grievances of the tenants.

Mr. RANAJIT PAL CHOUDHURY: With regard to question (*e*), will the Hon'ble Minister be pleased to state whether there is any establishment cost in realising these fines.

The Hon'ble Mr. PRASANNA DEB RAIKUT: Practically there is no establishment cost.

Motion for adjournment.

Mr. PRESIDENT: The notice of a short-notice question has been received. It will be taken up to-morrow.

I have received a notice from Mr. Lalit Chandra Das asking for leave to move a motion for adjournment of the business of this House for the purpose of discussing a definite matter of urgent public importance. It runs as follows:—

"That this Council do adjourn its business for the purpose of discussing a definite matter of urgent public importance, namely:—

The situation arising out of Government's refusal to accord sanction to the Calcutta Corporation to purchase the undertaking of the Calcutta Electric Supply Corporation within the municipal limits of Calcutta."

The motion is undoubtedly of great public importance and it is also definite, but I should like to know how it is urgent.

Mr. LALIT CHANDRA DAS: Before I actually introduce the point how it is urgent, it is necessary for me to make some introductory remarks.

Mr. PRESIDENT: That is not allowed: I should only like to know why you consider the motion to be urgent.

Mr. LALIT CHANDRA DAS: Now the Company supplies electrical energy to the city of Calcutta and its suburbs——

Mr. PRESIDENT: Order, order.

Mr. LALIT CHANDRA DAS: I am showing the reasons.

Mr. PRESIDENT: I should like to know why you consider it urgent. You should only reply to that particular point.

Mr. LALIT CHANDRA DAS: The matter is urgent as this Company was working under licence granted by the Government of Bengal and such a licence is held subject to the Indian Electricity Act, as the license itself relates to compulsory purchases, and as this is due to expire in October, 1938.

It is so for the further reasons that unless actually the matter is placed now, it will not be possible to raise this question again in the course of another ten years to come. As a matter of fact, it is because the time is opportune now that the Calcutta Corporation has urged the Government to grant permission to take up the undertakings of the Calcutta Electric Supply Corporation. This license, Sir, is due to expire in October, 1938, and if this permission is not granted now, for ten years to come the Corporation will not get any opportunity to exercise their option, and that is why, Sir, I consider that this matter is urgent.

Mr. PRESIDENT: The Chair is usually very unwilling to admit adjournment motions as they interrupt the normal business of the House.

The Hon'ble Mr. NALINI RANJAN SARKER: I beg to submit, Sir, that the fact is not correct, because the license has not yet expired.

Mr. PRESIDENT: When was the Government order passed on this matter?

Mr. LALIT CHANDRA DAS: The date and time, Sir, I cannot state exactly, but as a matter of fact, the Calcutta Corporation wrote to the Commerce and Labour Department of the Government of Bengal, and the Government of Bengal said in their reply that they would not grant the permission. The license expires in October, 1938, and therefore, Sir, the matter is urgent. As a matter of fact, the Government seem to be defending the Calcutta Electric Supply Corporation by saying that they are not going to dismember this company.

Mr. NARESH NATH MOOKERJEE: With your permission, Sir, may I intervene in this debate? The licence for this local undertaking expires in October, 1938, and, thereafter, for the next ten years, the Calcutta Corporation will have no right to exercise their option of purchasing this undertaking. The Calcutta Corporation has given the Company regular notice and they have also called for tenders for this purpose from all parts of the world, and those tenders are before the Corporation, and it is very likely that the time for these tenders will expire in another fortnight. So, if the views of Government are not clearly put before the Corporation, I believe they will entirely lose this opportunity of exercising their option. The question of taking up the undertaking does not arise, but the urgency relates to the question of time. If permission is not granted now, the rate-payers and the citizens of Calcutta may not be able to avail themselves of cheap supply of electricity for domestic use before the next ten years. I appeal to my colleagues——

Mr. PRESIDENT: There is no question of appeal, Mr. Mookerjee. It is only a question of fact.

The Hon'ble Mr. H. S. SUHRAWARDY: May I say something at this stage, Sir? The Government orders refusing sanction were published, I believe, on the 1st of February. Since then there have been meetings of this House, but this question has not been raised. I submit that, generally, two days is the time that expires between a subject-matter which comes up for discussion and the time when an adjournment motion is admitted, or on the first day or on as near a day as possible at the beginning of the session. In this case, Sir, there have been sittings of this House, subsequent to that date and no notice has been taken of it till to-day. Therefore, in view of this I submit that it is not a matter of urgent public importance.

Mr. NARENDRA CHANDRA DATTA: In reply to the Hon'ble Minister my submission is that there was only one meeting of this House after the 1st of February, so the Hon'ble Minister's contention that there was sufficient time, does not hold good.

Mr. PRESIDENT: The point is this; adjournment motions are very extraordinary measures because they interrupt the normal business of the House. So unless the first opportunity is availed of they cannot be admitted. If the orders of Government on this subject were published on the 1st of February, and the House met on the 2nd, and no notice was given of this matter on the first available opportunity, then it is very difficult for the Chair to admit the motion. However, I would like to be satisfied on this point, namely, whether it is a fact that the orders of the Government were made public on the 1st of

February. The whole question hangs on the date of the publication of the orders.

Mr. NARESH NATH MOOKERJEE: The Corporation did not receive this letter before the 2nd of February.

Mr. PRESIDENT: That is not the point. The mover of an adjournment motion must take the first available opportunity of giving notice of the motion. If Government refused the sanction on the 1st of February, the motion in that case is now barred.

Mr. NARESH NATH MOOKERJEE: The hon'ble member could not avail himself of an earlier opportunity than this to place this matter before the House.

Mr. PRESIDENT: How was he barred on the 2nd of February, seeing that the Government orders were published on the 1st of February?

Mr. NARESH NATH MOOKERJEE: The actual decision of Government was conveyed to the Corporation on the 2nd February.

The Hon'ble Mr. H. S. SUHRAWARDY: We have nothing to do with the date when the reply of Government was made to the Calcutta Corporation.

Mr. PRESIDENT: Certainly we have nothing to do with the Corporation. Perhaps it was published in the papers?

Mr. LALIT CHANDRA DAS: We have been told more than once that reports in newspapers should not be relied upon, so what is there in the Government orders here that they should be sacrosanct?

Mr. PRESIDENT: I must ask the Hon'ble Minister to state the date on which the Government communique was published.

The Hon'ble Mr. H. S. SUHRAWARDY: There was a communique in the press issued on the 1st February.

Mr. NARESH NATH MOOKERJEE: I submit, Sir, that until and unless the details of such refusal were known, it was not possible for any member of this House to find out how they would react generally.

Mr. PRESIDENT: I hold that you ought to have given notice of this motion immediately after the publication of the communique.

I am of opinion that the rules regarding the motions for adjournment should be very strictly interpreted. I therefore hold that Mr. Das's adjournment motion is not in order.

Petitions Committee.

Mr. PRESIDENT: Order, order, I have received many petitions from several persons representing their views on some of the Bills pending before the House, but there is no provision in the Rules and Standing Orders of the Bengal Legislative Council for the appointment of any Committee on petitions received from public bodies and others. In the Central Legislature there are certain standing orders laying down the procedure for the formation of such a Committee, and the President is empowered to announce the names of certain members to form such a Committee, generally with the Deputy President as its Chairman. Such announcements regarding the appointment of the Committee on petitions are made at the commencement of each session. At present the Rules Committee is framing rules for regulating the procedure and the conduct of business of this House and I understand that the Committee is proposing certain rules on this subject. Before those rules come into force, the Chair proposes to nominate a Committee if the House agrees. I would, therefore, like to consult the House if it is their desire to constitute a Petitions Committee, then I shall appoint such a Committee. I might say that in the British House of Commons and in all other legislative bodies there are such Committees.

Rai SURENDRA NARAYAN SINHA Bahadur: Will this Committee be of a temporary nature?

Mr. PRESIDENT: The Rules Committee of this House is going to frame its own rules and it is under its consideration to frame rules for this purpose.

Mr. MOAZZEMALI CHAUDHURY: May I know, Sir, what will be the functions of this Committee?

Mr. PRESIDENT: The Committee will draw the attention of the House to the views expressed in the petitions. As a matter of fact, as regards the Bengal Tenancy Bill, I have received a number of petitions. However, I would like to enquire if the House desires to constitute such a Committee.

Dr. RADHA KUMUD MOOKERJI: I think it is desirable to set up a Committee at this stage, so that the business before the House may be more regularised, and I do not think that the House will have any objection to the appointment of such a Committee.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, I cannot realise the importance of such a Committee. I think it will be absolutely useless.

Khan Bahadur M. ABDUL KARIM: Sir, as a member of the Central Legislature, I was on the Committee of Petitions and these Committees of Petitions can do very useful work, if they desire and are willing to do so, and may be utilised for the purpose of bringing up such Bills as require the general consideration of the House. I am entirely in favour of the formation of such a Committee here, and we have drafted rules for the formation of such a Committee.

Mr. H. G. STOKES: We also favour the appointment of such a Committee.

Mr. PRESIDENT: I find that there is no objection. Only the Maharaja of Santosh thinks that the Committee will not be very useful. That will depend as to how the Committee functions. I therefore appoint the Petitions Committee consisting of——

The Deputy President as Chairman,

Khan Bahadur M. Abdul Karim,

Mr. Srish Chandra Chakraverti,

Mr. D. H. Wilmer, and

Raja Bahadur Bhupendra Narayan Sinha, of Nashipur.

Mr. MOAZZEMALI CHAUDHURY: Will the members of the Committee get any extra allowance?

Mr. PRESIDENT: No, nothing.

Supplementary Estimate of Expenditure.

The Hon'ble Mr. NALINI RANJAN SARKER: Under section 81 of the Government of India Act, 1935, I beg to present a supplementary estimate of expenditure that will be necessary during the current year. The total amount of such anticipated expenditure is Rs. 3,42,000 of which Rs. 98,000 is voted and Rs. 2,44,000 is charged. The total grant of Rs. 3,42,000 will be distributed under eight major heads. The reasons for such anticipated excess in the expenditure during the year has been shown in the book which has been circulated to members to-day.

Some members: We have not got it.

The Hon'ble Mr. NALINI RANJAN SARKER: I find that some of the members have got it and others not. I will see that it is received by every member.

Mr. PRESIDENT: The Chair understands that every member has been supplied with a copy.

(Several members on the left of the Chair said, "No, No.")

Mr. HUMAYUN KABIR: I understand that it has been sent by post and some of the members have got it only this morning, so that there has been hardly any time to go through it.

The Hon'ble Mr. NALINI RANJAN SARKER: If you read the agenda, you will find that the statement is being presented to-day and that it will not be taken up for discussion now.

GOVERNMENT BILL.

The Bengal Tenancy (Amendment) Bill, 1938.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the Bengal Tenancy (Amendment) Bill, 1937, as passed by the Legislative Assembly, be taken into consideration.

Mr. RANAJIT PAL CHOUDHURY: Under section 299(*3*) of the Government of India Act, 1935, no Bill or amendment making provision for the transference to public ownership of any land or for the extinguishment or modification of rights therein, including rights or privileges in respect of land revenue shall be introduced or moved in either Chamber of the Federal Legislature without the previous sanction of the Governor-General in his discretion, or, in a Chamber of a Provincial Legislature without the previous sanction of the Governor in his discretion. Regarding extinguishment or modification of rights therein, may I know whether the previous sanction of His Excellency the Governor has been obtained?

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I would ask for a ruling from you as to whether the Bengal Tenancy (Amendment) Bill, 1937, as passed by the Legislative Assembly on the 30th September, 1937, for the consideration of which by this House the Hon'ble the Revenue Minister has tabled this motion is or is not maintainable under the Government of India Act, 1935, with reference to the lists in the Seventh Schedule of the said Act. It is list III, page 398, item No. 10, viz., contracts, including partnership,

agency, contracts of carriage, and other special forms of contract, but not including contracts relating to agricultural land. If you go through it you will see that certain matters are reserved for the Governor-General, and in my opinion contracts relating to agricultural land with reference to usufructuary mortgages, surrender of *mokarari* holdings or tenures, abatement of rents and interest on arrears of rent, etc. If you will kindly go through section 104 of the said Act, you will find that a Provincial Legislature is prohibited to enact a law with respect to any matter enumerated therein as beyond its competence or jurisdiction in any of the lists in the 7th Schedule of that Act unless the Governor-General by virtue of his residual powers of legislation empowers it to do so by public notification and not otherwise. With reference to the case under review, no such notification was made as far as I know. The Governor's sanction to introduce the Bill was merely permissive with respect to the introduction of the Bill but that does not exempt the Bill from the operation of section 104. In my humble opinion, the Bill under review having dealt with forbidden matters is *ultra vires* and therefore *ultra licitum*. I have further points to submit which I shall do later.

Mr. PRESIDENT: I should now like to hear the Government point of view.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: About the first point, I may say, His Excellency the Governor has given his sanction.

Mr. RANAJIT PAL CHOUDHURY: May we know when the sanction was granted?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: When the Bill was introduced in the Assembly.

Mr. PRESIDENT: Sanction has been given by the Governor in his discretion. Have you any doubt about the sanction having been given?

Mr. RANAJIT PAL CHOUDHURY: I am not doubting the statement of the Hon'ble Minister, but I want to know when the sanction was granted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not carry the date in my head, but I can assure the hon'ble member that it was given at the proper time.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Do I understand that the Governor-General gave his sanction?

Mr. PRESIDENT: That point is now settled. Previous sanction has been obtained.

Mr. RANAJIT PAL CHOUDHURY: Has it been gazetted?

Mr. PRESIDENT: It is not necessary that previous sanctions should be published in the Gazette. About the second point that has been raised by Sir Manmatha Nath——

Mr. HAMIDUL HUQ CHOWDHURY: I think the Maharaja Bahadur is under a wrong impression. There are three lists. One is Federal, another is Provincial, and a third is Concurrent. The Federal List is exclusively for Federal subjects; so is the Provincial List for the Province. As regards the Concurrent List those subjects not mentioned in any of the other two Lists are provided there. Now he has read item No 10 of the Concurrent List on page 294 of the Act. Certainly that has excluded agricultural land. But this is included as item No. 21 of the Provincial List on page 292 and, therefore, that exclusion has been made. Item No. 21 on page 292 reads "Land, that is to say, rights in or over land, land tenures, including the relation of landlord and tenant, and the collection of rent; transfer, alienation and devolution of agricultural land", and so and so. And, therefore, if it is covered by item 21 on page 292, section 104 of the Act does not come into the scene at all. If it is not included in any of the lists, the Governor-General will only direct within whose province it is.

Mr. PRESIDENT: I should like to hear Sir Manmatha Nath to the point raised. Section 100, sub-section (2) of the Act says: The Provincial Legislature also have power to make laws with respect to any of the matters enumerated in List III in the said Schedule.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, section 100, sub-section (2), no doubt says that the Provincial Legislature is empowered to make laws with respect to any of the matters enumerated in List III, that in my opinion that does not include matters definitely excluded in that List. On the other hand, item No. 21 of List II mentioned by Mr. Chowdhury is drawn up in general terms, whereas the exclusion in item No. 10 of List III is specific. I think the Act, rather the implication of the Act, is that contractual rights should not be disturbed unless special permission is obtained from the Governor-General who reserved these objects for his own consideration, I mean, by virtue of his residual power. It is only to make it difficult for the Provincial Legislature to violate the sanctity of contracts that this restriction was imposed. There is another restriction contemplated in section 299. Apart from that when a restriction has been imposed by the Schedule, and section 104 has

attached great importance to that Schedule, particularly when the Governor-General has reserved the power of giving permission to the Provincial Legislature to deal with those excluded subjects, it can only take up such matters when the Governor-General in his discretion has published a notification empowering the Provincial Legislature, in other words, removing the disability imposed on it. But until that notification has been published and it must be published before a prohibited matter is taken up by a Provincial Legislature, I submit that the Provincial Legislature has no jurisdiction and has no power to deal with it.

Mr. HUMAYUN KABIR: But the point raised by Mr. Hamidul Huq Chowdhury has not been fully answered.

Mr. PRESIDENT: Order, order. I have understood the points raised. The Government of India Act, 1935, section 100, sub-section (*3*), makes it perfectly clear "Subject to the two preceding sub-sections the Provincial Legislature has, and the Federal Legislature has not, power to make laws for a Province or any part thereof with respect to any of the matters enumerated in List II in the said Schedule". Here item No. 21 in List II is "land, that is to say, rights in or over land, land tenures, including the relation of landlord and tenant, and the collection of rents; transfer, alienation and devolution of agricultural land; land improvement and agricultural loans; colonization; courts of wards; encumbered and attached estates; treasure trove." So it is clear that under item No. 21 of List II it is only the Provincial Legislature that can legislate. As regards the third List which has been referred to, there also it is optional both for the Central Legislature and for the Provincial Legislature to initiate legislation. So where there is no mention about an item then alone the question of section 104 may come in, but as it specifically comes under item No. 21, List No. II, I hold that there is no substance in the Maharaja's contention.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: May I raise my next point. My next point is that the Bill in question infringes section 299(*1*) and (*2*) of the Government of India Act, 1935. I would request you, Sir, to read sub-section (*2*) with sub-section (*5*) of the said section 299 of the Act, in order to understand the real significance of my point. I must request you, Sir, also to go through paragraph 2 of article 6 of Regulation I of 1793. I beg to submit that the essence of the contract as embodied in Regulation I of 1793 is the recognition by the Government of the zemindar as the actual proprietor of the land. On the other hand, the rights of pre-emption and the right to demand and obtain transfer-fees are also rights in land and these are being taken away by the Bill under review without providing for the payment of any compensation

whatsoever to the possessors of those rights as contemplated in section 299 of the Government of India Act, 1935. I may be permitted, Sir, to draw your attention to the words "with a view to promote the future ease and happiness of the people", which occur in Regulation I of 1793, and, which, in my opinion, constitute the objects and reasons of the declarations and orders embodied in it. Since the said declarations and orders are irrevocable, the objects and reasons given in Regulation I of 1793 must also be held to be invariable. If this is admitted, the conclusion is inevitable that all incidental privileges that may arise out of legislation within the scope of Regulation I of 1793 for the benefit of the tenants at the cost of zemindars are for "the future ease and happiness of the people" or in other words "for public purposes" as contemplated in section 299 of the Government of India Act, 1935. If that is admitted, all such subsidiary collateral and incidental benefits and privileges must come under the purview of section 299(*2*) of the Act. So far as the question of payment of compensation goes, I have already drawn your attention to sub-section (*5*) of section 299 which clearly lays down that "land" means "rights in land". Under section 292 of the Government of India Act, 1935, I submit, all the laws in force in British India immediately before the commencement of Part III of this Act shall continue in force in British India until altered or repealed or amended by a competent Legislature or other competent authority. The Assembly is not, I have already submitted, competent to deal with the matter which have been reserved by the Governor-General in view of section 104 of the Government of India Act, 1935. Of course, Sir, you have ruled against that, but nevertheless, from section 299, sub-section (*2*), read with sub-section (*5*), you will be convinced, I hope, that land means rights in land, and that these rights are being taken away from the landholders for the benefit of the tenants. The zemindars are entitled to compensation and compensation must be provided for in this Bill of expropriation. Without such a provision, the Bill, in my considered opinion, cannot be introduced and it must be held that it infringes section 299, sub-section (*2*), read with sub-section (*5*).

Here, I would say that, in the event of your having any doubt with regard to this point, I think, I should not press another point that I wanted to raise, because I feel that I should await your decision on the point that I have raised.

Mr. PRESIDENT: Sir Manmatha Nath, do you contend that the Bill provides for compulsory acquisition of land for public purposes? Is that your contention?

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Yes, by law.

Mr. PRESIDENT: I am merely quoting the words of the Statute: "Neither the Federal nor a Provincial Legislature shall have power to make any law authorising the compulsory acquisition for public purposes of any land....." Is it contended that by this Bill there will be compulsory acquisition?

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I quite agree that if this Bill is enacted into law then that law must be observed. The inevitable result will be that the rights will be taken away from the zemindars in order to benefit the tenants.

Mr. PRESIDENT: The difficulty which the Chair feels is that it will not come within the mischief of sub-section (2) of section 299 of the Act. The section says "compulsory acquisition for public purposes". If it is acquired for public purposes, then this acquisition will come within the mischief of this sub-section.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Yes, Sir. But I have referred to paragraph 2 of Regulation I of 1793. May I read it out, Sir?

Mr. PRESIDENT: Yes.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: It reads as follows: "The Hon'ble the Court of Directors considering these usages and measures to be detrimental to the prosperity of the country, have, with a view to promote the future ease and happiness of the people, authorised the foregoing declarations and the zemindars, independent talukdars and other actual proprietors of land, with or on behalf of whom a settlement has been or may be concluded, are to consider these orders fixing the amount of the assessment as irrevocable and not liable to alteration by any persons whom the Court of Directors may hereafter appoint to the administration of their affairs in this country." So, if any alteration is going to be made, it must be for the ease and happiness of the people, and in modern language, probably, we should call it "public purpose."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, first of all, I would like to repeat practically what you have been pleased to say, viz., that there is no question of compulsory acquisition of rights in land. It may be a case of extinguishment of certain rights, but it is certainly not a question of acquisition. That is a complete answer to the point of order raised by the Maharaja Bahadur. Even if it were a case of infringement of the Permanent Settlement, under the Instrument of Instructions all that the Governor can do is to withhold his assent and reserve the Bill for the assent of the Governor-General, but

it does not empower him to withhold sanction for the introduction of a Bill of this character. I do not think that there is any substance in the point of order raised by the Maharaja Bahadur.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, the Maharaja Bahadur has raised a question of principle. He has referred for his authority to the Regulation itself, but, apart from the question of inherent right of the State or legislature to legislate on matters on which they have legislated on previous occasions, I would confine myself to the Regulation itself. What does the Regulation say? It is not a *Magna Charta* given only for the benefit of the landlords. The whole purpose of the Regulation is well known to all. There is a specific reservation for the protection of the class which is intended to be protected by this Act, and that is Article VII. With your permission, Sir, I shall read it out to you:—

"It being the duty of the ruling power to protect all classes of people, and more particularly those who from situation are most helpless, the Governor-General in Council will, whenever he may deem it proper, enact such Regulations as he may think necessary for the protection and welfare of the dependent talukdars, ryots, and other cultivators of the soil, and no zemindar, independent talukdar, or other actual proprietor of land shall be entitled on this account to make any objection to the discharge of the fixed assessment, which they have respectively agreed to pay."

I submit, Sir, that this is a complete answer to the point of order raised by the Maharaja Bahadur. The Governor-General or the ruling power has kept to itself the reserve right to legislate for the purpose of protecting a class of people who cannot protect themselves. The whole purpose of the Regulation is to fix the liability of the landlords and not to make them a protected class by itself but with the ulterior object of making them exert for the improvement of the land that is within their possession, so that that improvement might, directly or indirectly, ensure to the benefit of the weaker class, namely, the tenants. That was the object.

Now, Sir, the hon'ble member in taking up the point that the legislature has no power to take away and injure the rights that have been given to the landlords by the Act has forgotten that they have used this privilege for the purpose of increasing those rights by a legislative enactment. They have also agreed to the curtailment of those rights by legislation, when they agreed to the passing of the Act of 1885. By that Act occupancy right were created, and they were a special class of rights given by the Statute, and they were a protected class—in spite of the Regulation of 1793. Therefore, the past practice shows that the rights have been infringed. The rights have also been extended, for as recently as 1929 the zemindars acquired

additional rights under the Statute. With what face can they say now that the Legislature has not the power to pass any enactment affecting, in any way, the Regulation of 1793, even if that Regulation is interpreted in the way the Maharaja Bahadur has done?

Therefore, on the merits of the case itself, I submit that the Maharaja Bahadur has no case.

Mr. KAMINI KUMAR DUTTA: Sir, I think that the point raised by the Maharaja Bahadur has no basis at all. It appears that under section 100 of the Act, to which reference has already been made, power has been given to the Provincial Legislature to enact laws in respect of subjects enumerated in List II of the Seventh Schedule. Certainly, it cannot be the intention of section 299 of the Act to take away the power which was already given to the Legislature, and section 299 and all other relevant sections of this Act must be so read as to make them consistent with each other. At the same time, there is a subsequent section in which general power is given for the curtailment of rights. That section of curtailment should be very strictly read and construed, and not a word more should be added, and nothing by way of inference should also be added to it. That is the general principle, Sir.

Power has already been given to the Legislature to make laws. In the subjects enumerated in List II, item No. 25 comprises this particular subject of law of tenancy. We have to see whether section 299(2) does, in any way, cut at the root of that power. It lays down that before that section can be invoked, two conditions are to be fulfilled. These two conditions are that it must be a case of compulsory acquisition, and it must be a case of acquisition for public purpose. None of these conditions is fulfilled in this case. It is neither a case of compulsory acquisition nor a case of acquisition for public purpose. Public purpose certainly does not mean that it is a purpose by which only a section of the public is benefited because of the law. Public purpose is that which directly benefits the public. It is not a case of compulsory acquisition at all. If it is enacted as a law, there will be certain changes as to the rights of the landlords (those rights which are now regulated), the rights between the landlords and tenants which are now regulated by the law, now in existence There would be some changes in the law, and if by the statute the rights are regulated in a different manner, it is not acquisition of that right at all. This section 299(2) of the Act only refers to the case of a direct compulsory acquisition which must be for public purpose. None of these conditions is fulfilled in this case; so this section will not be applicable in this case. The power which has been given by section 100 of the Act to the Legislature is not in any way curtailed by the provisions of this section.

Khan Bahadur M. ABDUL KARIM: If I have been able to interpret the law correctly, to my mind it seems that the Maharaja Bahadur's contention has no legs to stand upon, because I find that sub-clause (*3*) of section 299 of the Act, if read between the lines, refers to Bill or amendment making provision for transference to public ownership of any land or for the extinguishment or modification of rights therein. The most important word is "therein", that is to say, for the transference to public ownership. Here there is no question of transferring any portion of zemindars' rights to public ownership,—nothing of the kind. Coming to the next sentence "or for the extinguishment or modification of rights therein", on which I think the Maharaja Bahadur has his eye, the important words there are "extinguishment or modification of rights of such lands which is transferred to 'public ownership',"—not to any man. Probably the Maharaja Bahadur was labouring under a confusion and he omitted to note the significance of the word "therein". Therefore, my submission is that the Maharaja Bahadur's contention about this section has absolutely no reference to the facts or the spirit of the law.

Mr. NAZIRUDDIN AHMAD: The relevant points have been thoroughly discussed and I do not wish to cover those grounds again. I wish to confine myself to a few side issues raised. The Maharaja of Santosh has described Regulation I of 1793 as a contract—presumably a contract between the Government and the zemindars. I fail to see how a Regulation having the force of a legislative enactment can be regarded as a contract between two parties. Even if we permit ourselves loosely to describe it as a contract, it would be absolutely wrong, to regard Regulation I of 1793 as a contract between two parties only—the Government and the zemindars. There was a third party involved in the transaction, that is, the tenants. Any one who has carefully read the history of the Permanent Settlement, cannot fail to notice that there was an ardent desire in the mind of the Parliament as well as the authorities in India at the time, to safeguard the rights of the tenants as well. The fact that the zemindars were declared proprietors of the land was subject to the rights of the tenants and the history of the transaction leaves us in no doubt whatsoever. When time comes, we shall be prepared to show, by quoting chapters and verses, that the proprietorship of the zemindars was a qualified right. If the Maharaja of Santosh would take care to read the celebrated judgment in the Great Rent case, which was delivered in the year 1865, he will see that fourteen very eminent judges of the Calcutta High Court unanimously declared that the proprietorship —the alleged proprietorship—of the landlords was subject to the rights of proprietorship of the tenants. The word "proprietorship" was described as too vague, and after discussing the whole question and considering the authorities cited by very eminent Counsels and

Vakils on both sides, they held that the rights of the raiyats were absolutely unaffected by the Regulation and that the zemindars were not absolute proprietors of the soil.

The Maharaja of Santosh has advanced another novel proposition that unless the present Bill conduces to the "peace and happiness of the people", it is *ultra vires*. The obvious implication of this argument is that this Bill is not going to be conducive to the peace and happiness of the "people". I believe that in the back of his mind there lurks the idea that the "people" whose happiness alone is his sole concern consist of the zemindars. I believe that the entire body of the zemindars in the province can be counted on one's fingers as it were, in comparison with the large body of fifty million tenants. With due respect, I submit that if this Bill is passed into law, it will lead to the peace and happiness of the real "people" of the country.

Mr. RANAJIT PAL CHOUDHURY:: What about the tillers of the soil?

Mr. NAZIRUDDIN AHMAD: It would be easy for us, at a more appropriate stage, to show to the House that the cry for the "tillers of the soil" is absolutely a bogus slogan originating from and advertised in the interest of the zemindars.

Mr. PRESIDENT: On the point of order, raised by the Maharaja Bahadur, many side issues have been raised which are not strictly relevant. The Permanent Settlement is not before the House just at present. Even speaking of the Permanent Settlement, provision will be found in the Instrument of Instructions for changing that law, and it is clear from section 293 of the Government of India Act, 1935, that if any of the previous laws go against any provision of this Statute, provision has been made for adaptation of the existing Indian laws to conform to the principles laid down in the Act itself. In section 299 it is perfectly clear that it deals with any law authorising acquisition for public purposes. And in this Bill there is no provision which really contemplates authorisation of compulsory acquisition for public purpose of any land. I, therefore, hold that the motion is in order.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the Bengal Tenancy (Amendment) Bill, 1937, as passed by the Legislative Assembly, be taken into consideration.

Mr. NAZIRUDDIN AHMAD: May I have your permission to move a short-notice amendment?

Mr. PRESIDENT: That must come in order, the motion for circulation must have preference.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon by the 30th April, 1938.

Sir, I hope the Hon'ble Revenue Minister will forgive me if my condemnation of the Bengal Tenancy Amendment Bill which is now before the House is couched in strong language. I know that hard words break no bones——.

The Hon'ble BIJOY PRASAD SINGH ROY: I have no bones —only flesh.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: We shall see presently how far that is true. I shall keep an eye on your face. However that may be, if I am going to use hard words I will be doing so more in sorrow than in anger. Extraordinary measures require extraordinary treatment and it is perhaps humanly impossible to suppress the feelings of indignation which the drastic and iniquitous provisions of the Bill give rise to in the minds of those who recognise the inter-dependence of our country's prosperity upon the prosperity and simultaneous development of each class and community which live in it—those who abhor socialism and communism, class-wars and communal feuds. I honestly feel that the piece of legislation which is being presented to us for our consideration is a gross slur upon the present administration of Bengal, inasmuch as it not only seeks to break the solemn pledges which were given by the Hon'ble Court of Directors in 1793 as irrevocable and not liable to alteration by themselves or their successors but also seeks to defeat the solemn purpose of His Majesty the King Emperor's instructions to Governors and Governor-General with reference to section 299(*3*) of the Government of India Act of 1935 as contained in the Instrument of Instructions, which is an inseparable part thereof. Like a great steam-roller, the Bill has been set in motion to crush down under its weight contractual rights, vested interests and proprietory rights in land which constitute the basic principle of the Permanent Settlement, or should I compare it with an avalanche which unexpectedly gets loose and slide down over a precipice to ruthlessly destroy all that comes in its way?

Dr. RADHA KUMUD MOOKERJI: Including unqualified rights of exploitation.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: The burden of proof thereof lies on your shoulders. In any case, all Governments established by law are anxious to check and if possible eradicate subversive movements within the radius of their influence, but I may tell the Hon'ble Revenue Minister that his Tenancy

Bill, if enacted and perpetuated, will come to be treated as a permanent subversive measure——

Dr. RADHA KUMUD MOOKERJI: On a point of order, Sir. We are being treated to too much of academic eloquence.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: My friend, when he is called upon to make a speech, excels me in that art (Laughter.)

Dr. RADHA KUMUD MOOKERJI: That remains to be proved.

Mr. PRESIDENT: Order, order.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh. I repeat it is a subversive measure brought about to uproot accepted principles, break up time-honoured pledges and wipe out the cement which holds together the component parts of our social organisation. It will violently shake the foundation of our economic life in our rural areas. Any measure which does not respect fundamental rights or sanctity of contracts must be calculated to be revolutionary and I shall not be surprised if the Bill, when enacted, becomes a new nightmare to strike terror into the hearts of our people. I would tolerate even a pernicious measure like the one with which we stand confronted to-day if it could really accelerate the progress and advancement of our tenant folks through right channels and bring about the amelioration of the present condition of their economic life. I ask the Hon'ble Revenue Minister and his colleagues in all seriousness to so adjust their angle of vision as to be able to see with a clear perspective the poverty problems of the cultivators. In fact, their economic life cannot be improved by thoughtless tinkerings of the Tenancy laws of the land. The present Bill, if enacted, is sure to be a lawless law. It will completely revolutionise the present land system of Bengal and with that the existing order of things in this province. Instead of giving relief to the suffering people, it will throw back the progress of the country to an alarming extent. It will bring about a revolution which will perhaps be greater than all the transitions which the history of the Legislature in Bengal has recorded. I shall not be doing my duty and shall certainly be guilty of lack of candour if I do not tell the Hon'ble Revenue Minister that his Bill will not only effect "modification" and even "extinguishment" of the proprietory rights of the landholder in the soil, which were irrevocably recognised by the sovereign-power in the memorable Regulation of 1793 but will also do incalculable mischief by widening the gulf which unfortunately exists but should not exist between the landholders and the tenants. The gulf has been artificially created by designing men—a set of exclusively

selfish people—who were out for cheap popularity or self-aggrandisement. I am afraid the Bill under review, if it is put on the Statute Book, is bound to lead to internal dissensions at a time when our honest endeavour should be to achieve unity and to grow together into a nation. It will be nothing short of self-deception if the present Ministry in Bengal think that by an imperfect and iniquitous measure like the one which they are asking us to consider, they will capture the imagination of the tenants and cultivators of the Province.

The Hon'ble Mr. NALINI RANJAN SARKER: That has already been captured.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: You are being played with in the hands of the communists; I will come to that.

They will soon find out that the proposed measure cannot solve poverty problem of the tenants, or render any help to them in their struggle for bread and that it is designed to ruin the old territorial aristocracy of Bengal only to create a new class of plutocrats who will prove veritable engines of oppression and death-traps to the tenants. They will one day realise that the expropriation of landholders is the main plank of the platform of the communist. I may be pardoned if I warn the Ministry in Bengal and for that matter the leaders of all communities in this Province not to foster the growth of subversive idealogy, tending to embitter the relationship between landlords and tenants.

The present attack on the landholders is the thin end of the wedge and if we fail to combine to stem the tide of communism in this country, a day will come, and that very soon, when similar and perhaps fiercer attacks will be launched on all forms of vested interests. If you weaken the zemindars, I doubt, if you will have sufficient vitality left in you to withstand the baneful sway of communism which is a menace to society and ordered progress. If Government is really anxious to make the cultivators in our rural areas, happy and prosperous, why not instead re-organise, by effective and thoughtful legislation, the land system on a co-operative basis within the scope of the irrevocable Permanent Settlement for the benefit of Government, the landholders and tenants, and, for the matter of that, of all who live within the various estates that will come under the operation of such a change with the object of inaugurating a common industrial and agricultural policy on modern and scientific lines to be pursued by the federal estates.

Now permit me, Sir, to touch more definitely on one or two drastic features of the Bill. The House will agree with me that the fundamental right to transfer a holding or a portion of a share of a holding

is a proprietory right and in my opinion "extinguishment or modification" of that right must be taken to alter the "character of the Permanent Settlement" inasmuch as the essence of the contract as embodied in Regulation I of 1793 is the recognition by Government established by law of zemindars as "actual proprietors of land." These are the very words that occur in the preamble of that historic document and that recognition is based on that proprietory right and I have no doubt in my mind that it constitutes the basic principle of the Permanent Settlement, which was or may be "concluded with or on behalf of the actual proprietors of the land." I am again quoting the words that have been actually employed in the famous Regulation. Its violation is tantamount to the violation of the Permanent Settlement although it has been declared "irrevocable." On the other hand, in my opinion, the right of pre-emption and the right to demand and obtain transfer fees are inevitable substitutes of the right to transfer which were created by the amending Act of 1928, and if such rights are "modified or extinguished," the foundational rights enjoyed by the zemindars under Permanent Settlement shall be wiped out and thereby alter the character of the Permanent Settlement and defeat the purpose of section 299 (*3*) of the Act and the Instruments of Instructions to Governors and to the Governor-General in respect thereto. But, Sir, I wish to make it clear to the House that if this illegality could actually improve the economic life of the tenants 99 per cent. of the landholders of this province would have, perhaps, agreed to make the sacrifice involved in it, but they feel in the heart of their hearts that the tenants are being hoodwinked, and no substantial benefit will accrue to them from the proposed measure. On the other hand, in my judgment, the words "alter the character of the Permanent Settlement" which occur in the Instruments of Instructions are more wide and comprehensive and include the words used in Regulation I of 1793, and if I am right, it is undeniable that the zemindars are entitled to have the benefit of those wider expressions. The Instruments of Instructions so far as they are confined to the heading C, in my considered opinion, relate to section 299(*3*) of the Act. Otherwise those instructions must be held to be repugnant to section 299(*3*) and to the extent of the repugnancy, void. This is unthinkable. "Rights in land" referred to in section 299(*3*) of the Act in my opinion do correspond to the character of the Permanent Settlement as contemplated in the Instruments of Instructions which, I have no doubt, have been directed to remove any ambiguity that there may be in section 299(*3*) and to make it really effective as a protective measure.

Mr. HUMAYUN KABIR: Is it permissible to the hon'ble member to base his case on section 299 of the Act when you have already ruled that this Bill does not infringe that section? That is the whole basis of the argument of the hon'ble member.

Maharaja Sir MANMATHA NATH RAY CHAUDHURY, of Santosh: No, Sir, my friend is mistaken. The argument that I am now advancing has no direct bearing on the ruling referred to by my friend. It may be that my point of order was ruled out but that does not obliterate the section itself from the Government of India Act, 1935, and I am entitled to refer to it for my present purpose. I do not think that the Hon'ble President will preclude me from doing so.

I have no doubt that the ambiguity in section 299(3) of the Act has been removed by the wider expressions in the Instrument of Instructions and it is really effective as a protective measure. It might not have been so effective without those instructions given to the Governors and the Governor-General by His Majesty the King Emperor. Perhaps section 299(3) would have led to ambiguity but if it is read in the light of those memorable instructions, it will appear as clear as day light.

Anyway, I am strongly of opinion that if the proposed Bill is admitted and passed, it will not be an absolute or inoperative statute unless finally assented to by the King Emperor or in other words by Parliament. I would therefore request the Hon'ble Minister to kindly take into consideration the proposal which I have made. Let the Bill be circulated to elicit public opinion, and let the Bill be recast in the light of the opinions obtained. He could then really do something good to the tenants; he could then really improve their economic life; he could then bestow his best thoughts on their poverty problems and concert measures which would not injure the landholders but at the same time would improve the economic life of the tenants. I can assure the Government, on behalf of the landholders, that, if such a really beneficent measure is brought before the House, which will not ruin any particular class or community, but will go to improve the economic life of the cultivators and secure their peace, happiness and prosperity, the zemindars will whole-heartedly support that measure and undergo any reasonable sacrifice that they may be called upon to make in relation thereto.

Mr. PRESIDENT: Amendment moved: That the Bill be circulated for the purpose of eliciting opinion thereon by the 30th April, 1938.

I find that Rai Satis Chandra Mukherji Bahadur has an identical motion except as regards the date. Does he want to move his amendment? Or does he simply wish to speak in support of the Maharaja's amendment?

Rai SATIS CHANDRA MUKHERJI Bahadur: I do not want to move my amendment, but would speak in support of Maharaja's amendment.

Mr. PRESIDENT: Now, what about the Raja Bahadur of Nashipur's amendment? Does he want to move it as a separate motion?

Raja BHUPENDRA NARAYAN SINHA BAHADUR, of Nashipur: No, Sir. I do not want to move my amendment. Like the Rai Bahadur I will support the Maharaja's amendment.

Mr. PRESIDENT: Now, Rai Keshab Chandra Banerjee Bahadur has also an identical amendment. Will he move it?

Rai KESHAB CHANDRA BANERJEE Bahadur: I do not want to move it at this stage, but would like to move it separately if the amendment of Maharaja Sir Manmatha Nath Ray Chowdhury, of Santosh, fails.

Mr. PRESIDENT: You cannot do that. If you want to move your amendment, you must do it now, as an amendment to the amendment moved by the Maharaja. Or you can speak in support of the Maharaja's amendment.

Rai KESHAB CHANDRA BANERJEE Bahadur: Then, Sir, I do not wish to move my amendment.

Mr. HUMAYUN KABIR: Sir, I should commence by saying that I have enjoyed the beautiful periods of the speech of the Maharaja of Santosh as much as I have been amused by its illogicality. For, if I have understood his speech aright, he is against the principle of this Bill. It is a Bill which, according to him, is not going to do any good to anybody whatsoever. Further, it is according to him a Bill which is going to revoke pledges which were irrevocable, and it is going to ruin vested interests. It is, he declares, going to bring about an avalanche in which all beauty, all sanctity of contracts and all that represent culture and sweetness in the law of life shall be swept away. If I have understood him aright, it is according to him a Bill by which the sanctity of contract shall be undermined, and so on and on, and that lawlessness shall reign in this province. But if that be the case, I do not understand why he should want to circulate this Bill instead of opposing it outright. That is one aspect of the speech which he has delivered to this House this evening.

Then again he has given us to understand that this Bill is not only a bad Bill, it is also *ultra vires*. It is not regular and that it cannot come into operation even if this House is going to pass it into law. Well, if that be the case, if that be his honest conviction, why does he want to send the Bill for circulation instead of opposing it outright? If the Bill is sent for circulation, that means that there are in this Bill at any rate certain elements which he can accept, or that there

are certain elements about which the public can offer comments, so that the Bill may be improved. But that implies that the principle of the Bill at any rate is acceptable to this House, and further that this principle is not in any way contrary to the enactments of the Government of India Act, 1935.

I shall not go into the merits of the question which he has raised to-day, for we shall have plenty of opportunities of discussing that question later on; but I would make only one remark. The Red Herring of communism is very often dragged in discussion without any justification, and here also, in a Bill for which the sanction of the Governor has been obtained and which has been discussed in the Lower House, the same plea is raised. As I have suggested earlier, the whole speech of the Maharaja is illogical, because if the Bill is a bad Bill, if the Bill is one which is contrary to Statute, why should it be discussed at all, and the time of the House wasted by discussing it? The motion for sending it for eliciting public opinion is, therefore, an undermining of the contention raised by the Maharaja Bahadur that this Bill is a bad Bill. Further, I would ask, what is the purpose in sending it to the public for eliciting opinion? This is a question on which the public has already declared its opinion. This is a question about which people have debated in public and in the Legislature over a long period of time, and opinions are known. We know what is the public demand to-day; we know that many of the alleged rights which the Maharaja has to-day mentioned on the floor of this House are rights which the people of Bengal want to modify. Again he has raised the question as to the proprietory rights of the land. This question also I do not propose to discuss to-day, as we shall have time to discuss it later on.

Mr. PRESIDENT: Is the hon'ble member likely to conclude his speech soon? If not, we can take it up to-morrow.

Mr. HUMAYUN KABIR: Yes, Sir, I will finish to-morrow.

Mr. PRESIDENT: The House now stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m., on Wednesday, the 9th February, 1938.

Members absent.

The following members were absent from the meeting held on the 8th February, 1938:—

(1) Esmail, Khwaja Muhammad.

(2) Hossain, Mr. Mohamed.

(3) Laidlaw, Mr. W. B. G.

(4) Lamb, Mr. T.

(5) Poddar, Mr. H. P.

(6) Stokes, Mr. H. G.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 9th February, 1938, at 2-15 p.m., being the eighth day of the First Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Indian National Congress and Government servants.

124. Mr. SACHINDRA NARAYAN SANYAL (on behalf of Mr. H. P. Poddar): (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether the Government have, since the inauguration of the new constitution, issued any circular forbidding the Government officers from joining the Indian National Congress as members?

(*b*) If not, are Government servants now free to be members of the Indian National Congress?

(*c*) Is it a fact that Government servants who put on *khaddi* or a Gandhi cap as his private dress incur the displeasure of his superior officers on that ground only?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) No.

(*b*) Under rule 23 of the Government Servants' Conduct Rules, a Government servant shall not take part in, or subscribe in aid of, any political movement in India.

(*c*) No.

Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister kindly define the words "Government servant" to fit in with his reply (*b*)?

The Hon'ble Khwaja Sir NAZIMUDDIN: I will request the hon'ble member to look up the dictionary.

Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister be pleased to state if the Ministers are public servants?

The Hon'ble Khwaja Sir NAZIMUDDIN: The Ministers are exempted from the Government Servants' Conduct Rules.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state whether the definition has been put in in the dictionary?

(No reply).

Detenu Babu Supati Bhusan Roy.

125. Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether he is aware that detenu Babu Supati Bhusan Roy, now confined in Berhampore Detention Camp, is suffering from extreme debility, insomnia, gout and other attendant ailments for a long time;

(*b*) whether it is not a fact that the said Babu Supati Bhusan Roy has become invalid;

(*c*) whether there is any risk of his developing insanity if this state of insomnia continues any longer;

(*d*) whether it is a fact that no adequate medical treatment is being meted out to him;

(*e*) whether the Hon'ble Minister is considering the desirability of releasing him without any further delay considering his present state of health; and

(*f*) if the answer to (*e*) be in the negative, what mode of medical treatment the Hon'ble Minister proposes to adopt for him?

The Hon'ble Khwaja Sir NAZIMUDDIN: The detenu in question suffered from gout when at Deoli and is taking *ayurvedic* medicine at his own request which he says is doing him good. He is not willing to take allopathic medicine at present. He was also recently examined by the dental specialist and is receiving treatment for his gums. In other respects he is in good health and sleeping well. There is no sign of insanity or any reason to anticipate the same. He is receiving the treatment necessary for his case and there is no medical ground for his transfer.

Detenu Babu Gopal Haldar.

126. Mr. NARESH NATH MOOKERJEE: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether Babu Gopal Haldar, a detenu, is suffering from serious heart-trouble;

(*b*) whether while in jail Babu Gopal Haldar was found on electro-cardiographic examination by a Government specialist in the Calcutta Medical College to be suffering from Coronary Scerosis, Myocardice degeneration and Pulmonary Vulvular murmur;

(*c*) whether Babu Gopal Haldar who is now in home domicile, applied to the Secretary, Political Department, Government of Bengal, through the Special Branch, Calcutta Police, on the 15th of October, 1937, for permission to go for a change to Patna at his cousin, Professor Rangin Halder's place on grounds of ill-health;

(*d*) if so, whether it is a fact that Babu Gopal Haldar was informed by the Police on or about the 10th of December last, that no such permission could be given;

(*e*) whether it is a fact on enquiry from the Additional Secretary, Political Branch, Home Department, on the next day Gopal Babu came to learn that no such petition or reminders were received in the Secretary's office, nor any order refusing him the permission was issued by the Government;

(*f*) if so, whether the Hon'ble Minister considers the desirability of enquiring as to why the petitions and reminders to petitions addressed to the Additional Secretary, Political Branch, Home Department, were not forwarded by the Special Branch to that office;

(*g*) the reasons why the permission for a change on medical ground was refused to Gopal Babu; and

(*h*) whether the Hon'ble Minister considers the desirability of permitting him to proceed now to Patna or any other suitable place for a change on medical ground?

The Hon'ble Khwaja Sir NAZIMUDDIN: The individual in question was at one time a detenu but has since been unconditionally released.

In the circumstances I do not propose to pursue the enquiries which my hon'ble friend suggests.

127. Mr. NARESH NATH MOOKERJEE: Will the, Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether Babu Gopal Haldar, a detenu, was in village internment from April, 1936, for about a year;

(*b*) whether Babu Gopal Haldar has been in home internment in Calcutta for more than four months now;

(*c*) whether the Hon'ble Mr. S. C. Mitra, President, Bengal Legislative Council, in response to the declaration of the Hon'ble Minister in charge of the Home Department in this House on the 16th August, 1937, promised to the Government to look after the said Babu Gopal Haldar;

(*d*) whether it is a fact that Babu Gopal Chandra Haldar has not yet been released;

(*e*) if so, why;

(*f*) whether the Hon'ble Minister considers the desirability of releasing him now;

(*g*) if so, when; and

(*h*) if not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN: The individual in question was a detenu but has lately been unconditionally released.

Medical Officer of the Hijli Camp.

128. Mr. NARESH NATH MOOKERJEE (on behalf of Mr. Moazzemali Chaudhury): Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) who is the Medical Officer in charge of the Detention Camp at Hijli;

(*b*) what other functions this particular Medical Officer has to discharge in his official capacity;

(*c*) whether he is allowed to have private practice; and

(*d*) how far his residence is from the Detention Camp?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) The Detention Camp at Hijli was closed in July, 1937.

(*b*) to (*d*) Do not arise.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether one of the three State prisoners is kept in the Detention Camp?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes: but not in the Detenu Camp.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether it is the name of the Detention Camp which troubles him?

The Hon'ble Khwaja Sir NAZIMUDDIN: The Detention Camp referred to here refers to detenus who are staying there, not to the State prisoners.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state who is the Medical Officer in charge of the Regulation III prisoners?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice.

Release of Detenus and State Prisoners.

129. Rai BROJENDRA MOHAN MAITRA Bahadur: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state what steps have been taken to implement the statement made by him regarding the release of the detenus and State prisoners in accordance with his programme?

(*b*) How many detenus have, since his statement made in October last, been released—

(*i*) conditionally; and

(*ii*) unconditionally?

(*c*) How many of them were—

(*i*) in home internment;

(*ii*) in village domicile; and

(*iii*) in Camp or Jail at the time of their release?

(*d*) What is the total amount of the monthly allowance granted to the released detenus?

(*e*) What is the maximum and minimum amount of allowance granted to them per month?

(*f*) What is the maximum and minimum period during which such allowance was received by any detenu?

The Hon'ble Khwaja Sir NAZIMUDDIN: I regret that I am unaware of having made any statement on the subject in October last and consequently I am not in a position to reply to the hon'ble member's question.

Rai BROJENDRA MOHAN MAITRA Bahadur: Sir, I am sorry I put in October instead of August in my question (*b*).

Mr. KAMINI KUMAR DATTA: Will the Hon'ble Minister be pleased to state if he has to say anything as to the question if it really refers to August last?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is a hypothetical question.

Mr. NARENDRA CHANDRA DATTA: Did the Hon'ble Minister understand the meaning of this question and whether he has evaded it on the ground of this apparent mistake?

The Hon'ble Khwaja Sir NAZIMUDDIN: I cannot anticipate what the hon'ble member means.

Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister be pleased to state whether he really understood the question?

The Hon'ble Khwaja Sir NAZIMUDDIN: It is a perfectly straight answer. There is no question of evading whatsoever.

Political prisoners in Presidency Jail.

130. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether there are any electric fans in the Presidency Jail Hospital and whether there are electric fans in the European ward; whether Hon'ble Minister contemplates to grant them fans in the Jail Hospital;

(*b*) whether it is a fact that in this jail the lock-up-time for the detenus, the internees and the other political prisoners have been fixed from 7-30 p.m. to 5-30 a.m. as from last summer, and whether previously the lock-up-time was from 9-45 p.m. to 4-35 a.m. with permission to individuals to go out to answer call of nature; whether there was any escape of detenus or any political prisoners from this jail between 1932-37;

(*c*) whether it is a fact that in this jail from 7-30 p.m. to 8 a.m. no tiffin, no tea, etc., are available and all food is to be stuffed between 8 a.m. and 7-30 p.m., whether the detenus are healthy or ailing;

(*d*) if answers to (*b*) and (*c*) be in the affirmative, and the answer to the question regarding escape in the negative, whether the Hon'ble Minister is aware that this extended period of lock-up-time and food between 8 a.m. and 7-30 p.m. are telling upon the health of the political prisoners including the detenus; whether the Hon'ble Minister contemplates to restore the 1932 lock-up-time;

(*e*) whether the Hon'ble Minister is aware that there is persistent complaint from the detenus of the Presidency Jail to the effect that—

(*i*) books and magazines are not supplied regularly,

(*ii*) that letters and newspapers when received are not sent to the detenus without delay,

(*iii*) that papers, letter papers, exercise books, etc., when necessary are not supplied duly in spite of repeated reminders, and

(*iv*) that contractors when insisted to supply foodstuffs, toilet articles, etc., at the bazar rates say that these are not available or else supply the worst of stale fish, too small fish, rotten vegetables or send the bazar supply too late, so that detenus must accept for cooking whatever is available; if so, whether the Hon'ble Minister contemplates to institute an enquiry on those heads by a small committee of members of the Bengal Legislature; if not, whether Hon'ble Minister will be pleased to state the reasons therefor;

(*f*) whether it is a fact that sports account debits and credits are not shown to the Sports Secretary of the Presidency Jail detenus and the other political prisoners, and whether sports articles are often not supplied to the detenus on the plea of shortage of funds;

(*g*) whether it is a fact that education allowance of Rs. 50 is allowed to each camp detenus but not to the Presidency Jail detenus; if so, what are the grounds for this discrimination;

(*h*) whether it is a fact that a statement of grievances of the detenus of the Presidency Jail was submitted to the authorities in September last through Sreejut S. N. Biswas, M.L.A.; and

(*i*) if so, whether any steps have been taken to redress these grievances?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) There are no fans in the hospital or in the wards for division I and division II prisoners, including those occupied by Europeans so classified.

(*b*) Lock-up-time for detenus is one hour later than the time fixed for other prisoners, and that varies with the season. The provision of conveniences in the wards makes it unnecessary for individuals to go outside during the night. There was no escape from the jail of detenus or terrorist convicts between 1932-37.

(*c*) and (*d*) I am unable to follow my hon'ble friend in his suggestion that the prisoners stuff themselves continuously for eleven and a half hours. Some come to the jail ill and such a course would be fatal. As a matter of fact the detenus take their food in their wards and can consume it when they wish.

(*e*) I am aware that such complaints are made from time to time, but they have been found to be without substance.

(*f*) Sports articles are supplied as necessary and according to the funds available. The accounts are not shown to the detenus.

(*g*) It is not allowed as detenus are not ordinarily kept in the jail except for temporary purposes.

(*h*) Yes.

(*i*) The alleged grievances were examined by the jail authorities. They were found on examination to be either imaginary or incapable of redress inside a jail.

Mr. LALIT CHANDRA DAS: My question (*c*) was to the effect whether it is a fact that in this jail from 7-30 p. m., to 8 a. m., no tiffin, no tea are available and all food is to be stuffed between 8 a. m. and 7-30 p.m., whether the detenus be healthy or ailing. And the answer is that the prisoners stuff themselves for eleven and a half hours——

Mr. PRESIDENT: Please put your supplementary question straight. Reading the question and answer is not necessary: everyone knows it.

Mr. LALIT CHANDRA DAS: Sir, is it not assuming too much generosity on the part of Government that they supply too much food to the prisoners for them to stuff themselves continuously for eleven and a half hours. How can such an answer be given?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I would draw the attention of the hon'ble members of this House to the following portion of the question: "all food is to be stuffed between 8 a. m. and 7-30 p. m." I would like to know what are the other hours for taking food besides that.

Mr. LALIT CHANDRA DAS: May I give a reply to this, Sir, as the Hon'ble Minister seems to have appealed to the House? The complaint was that between the evening and 8 a.m. on the next day nothing is given to the prisoners to eat; that is to say, the prisoners stuff themselves with food at 8 a.m., or sometime after: that shows that there is clear starvation from 7-30 in the evening to 8 in the next morning.

The Hon'ble Khwaja Sir NAZIMUDDIN: First of all the question was couched in the form of an argument and latterly in the form of a supplementary question but with your permission, Sir, and the permission of the hon'ble members of this House, I would again draw the attention of the House, that the only interpretation that can be put upon the question of time for stuffing all the food is between the hours of 8 a.m. and 7-30 p.m.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state what are the grievances which were stated by Mr. S. N. Biswas, M.L.A., arising out of question and answer (*h*)?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state if these grievances were examined by the Hon'ble Minister himself?

The Hon'ble Khwaja Sir NAZIMUDDIN: I would refer the hon'ble member to my answer in (*i*).

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state if he considers the examination by the jail authorities to be adequate to dismiss a charge when it has been made by a member of the Legislature?

The Hon'ble Khwaja Sir NAZIMUDDIN: I might draw the attention of the hon'ble member to the fact that I myself also visited this jail, and also listened to the grievances that have been mentioned, and I do not differ with the conclusions arrived at by the jail authorities.

Mr. HUMAYUN KABIR: That is what I wanted to know.

Punishment to political prisoners on hunger-strike.

131. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether all the Andaman political prisoners were put in the same class, namely, class B; if not, whether there was an understanding when giving up of the hunger-strike by those prisoners that the question of putting them in the same class, namely, B class, would be favourably considered;

(*b*) whether it is a fact that the repatriated Andaman political prisoners are being given worse food than what they used to get before and that in consequence most of them are suffering from dysentery;

(*c*) whether it is a fact that Messrs. Ajit Kumar and Bagabat Singh, two political prisoners in the Andamans, are suffering intensely, the former from pain in the chest and backbone and the latter from dysentery;

(*d*) whether it is a fact that long before the Andaman Bengali political prisoners got back their usual health and weight, the Bengali political hunger-strikers were removed from hospital and made to work hard;

(*e*) whether it is a fact that on the 4th October last Mr. Prankrishna Chakraverty, a Bengali political prisoner in the Andamans, was very rudely treated by a sepoy in consequence of which he gave him a push;

(*f*) whether it is a fact that this Mr. Prankrishna Chakraverty was given fifteen stripes and whether in consequence eleven political prisoners in the Andamans went on hunger-strike and for which they were punished and confined to solitary imprisonment for a term varying from one month to three months;

(*g*) whether it is a fact that the political prisoners who went on hunger-strike in the Alipore Central Jail in sympathy with the political hunger-strikers in the Andamans were, after they ceased hunger-strike, handcuffed all night and were made to stand in that condition in day time also and given ordinary convicts' food;

(*h*) whether it is a fact that those political prisoners referred to in question (*g*) have not been given the usual remission of sentence of a month and a half in the year; and

(*i*) whether it is a fact that the Government promised that the political prisoners who went on hunger-strike would not be victimised in any way?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) It is not clear from my hon'ble friend's question as to what period he refers, but all the convicts repatriated from the Andamans are in division II.

(*b*) The food supplied is excellent and has frequently been inspected by official and non-official visitors and declared of good quality and sufficient in quantity. None of the prisoners is suffering from dysentery.

(*c*) No, it is not a fact.

(*d*) to (*f*) I regret that I am unable to answer questions regarding the administration of the Andaman Islands which is not the concern of this Government.

(*g*) and (*h*) No.

(*i*) There has been no victimisation.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state with reference to answer (*d*) to (*f*) whether an enquiry was made by the Government regarding the case of Mr. Prankrishna Chakravarty, the Bengalee political prisoner who was sent to the Andamans?

The Hon'ble Khwaja Sir NAZIMUDDIN: I submit, Sir, that this is not primarily the concern of this Government.

Mr. LALIT CHANDRA Das: Will the Hon'ble Minister be pleased to state if any enquiry was made by the Government—that was my question, Sir.

The Hon'ble Khwaja Sir NAZIMUDDIN: I have got nothing further to add.

Reclassification of Political Prisoners.

132. Rai BROJENDRA MOHAN MAITRA Bahadur: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state what progress has been made regarding reclassification of all the prisoners in Bengal?

(*b*) Does the Hon'ble Minister contemplate to classify all literate prisoners of the *bhadralog* class who are accustomed to better standard of living than the ordinary in class II?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) It has never been the intention of Government to reclassify all the prisoners in Bengal. The classification system provides for three divisions and the great majority of prisoners is correctly classified in division III. In accordance with my undertaking, I have examined the classification of individual

prisoners under the existing system with the result that three hundred and thirty-one prisoners formerly in division III have now been placed in division II.

(*b*) No.

Restrictions on Released Detenus.

133. Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether it is a fact that complaint is being made that the police is insisting on the detenus recently released by amending the order under sub-section (*1*) of section 2 of the Bengal Criminal Law Amendment Act of 1930, to notify all absence and intended absence from their residence to the local police;

(*b*) whether it is a fact that such action of the police is hampering their ordinary movements; and

(*c*) what steps the Hon'ble Minister intends to take to remove the causes of these grievances?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) I regret that my hon'ble friend is apparently under a misapprehension. There is and cannot be any question of action by the police in the sense apparently suggested by him. The orders in question are passed by Government and are quite specific in their terms which are as follows:—

> The detenu "shall notify his residence and any change of residence to the Superintendent of Police if he is residing in a district or the Deputy Commissioner of Police, Special Branch, Calcutta, if he is residing in Calcutta."

It is the duty of the police to take action so that Government's order is not disobeyed.

(*b*) and (*c*) Do not arise.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state whether, in the face of the restraint order which only requires the notification of residence apparently after a man occupies a place of residence, it justifies the police to require a detenu to notify any absence from his place of residence?

The Hon'ble Khwaja Sir NAZIMUDDIN: Speaking from memory, I think, the orders require a detenu to notify before he leaves and notify his address at the place where he arrives in case he leaves his district.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to take it from me that I have inspected a large number of these orders, and these orders are as they are quoted in the reply, namely, "shall notify the residence", etc., etc., and there is absolutely no restraint order requiring notification of absence from home before a detenu leaves his place. The order is exactly as it stands here. Now, Sir, in the face of these orders is the action of the police justified in asking for notification of absence from residence before any detenu leaves his place of residence, taking the order as it stands?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, as far as I know, Government orders are to see that the restraint orders as passed are carried out and if any specific case is brought to my notice, I will certainly look into it.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to give a reply to my query, because it is a question really involving a large number of detenus, whether any notification is required before they leave their residence for temporary absence?

The Hon'ble Khwaja Sir NAZIMUDDIN: Without looking into the file, I am afraid, I cannot make any further statement on the subject, but as I have said, if any specific case is brought to my notice, I will look into it.

Dr. RADHA KUMUD MOOKERJI: The question is whether the Hon'ble Home Minister is prepared to see that change of residence does not mean absence from residence.

The Hon'ble Khwaja Sir NAZIMUDDIN: Mere absence from residence in the same district does not require any notification of change of address.

Dr. RADHA KUMUD MOOKERJI: In that case will the Hon'ble Minister kindly make the Government order absolutely explicit, because there are cases of oppression due to misunderstanding of the order?

The Hon'ble Khwaja Sir NAZIMUDDIN: There may be hardships due to misunderstanding and I will try to rectify them if any such case is brought to my notice.

Building of the Bengal Legislative Council House.

134. Rai SURENDRA NARAYAN SINHA Bahadur: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state what progress has been made in the proposed building of a separate House for the Bengal Legislative Council?

(*b*) Will he also be pleased to state whether any room will be provided in this proposed building for the tiffin and other purposes for the orthodox Hindus?

The Hon'ble Khwaja Sir NAZIMUDDIN: A Committee has been appointed to make recommendations regarding plans for a new Legislative Council building. It is impossible at this stage to say what accommodation will be provided. Provision for Rs. 1,00,000 has been included in the budget for 1938-39 for the earlier stages of the work.

Mr. RANAJIT PAL CHOUDHURY: Do Government contemplate to build residential quarters for the Secretary of the Council?

The Hon'ble Khwaja Sir NAZIMUDDIN: No.

Dr. RADHA KUMUD MOOKERJI: Does this provision of Rs. 1,00,000 include part of a scheme or the whole scheme? In this connection I should like to say that the United Provinces Government have completed a scheme which cost them Rs. 1,50,000.

The Hon'ble Khwaja Sir NAZIMUDDIN: I would request the hon'ble member to wait till the budget is presented. In the meantime I may state that it is inconceivable that the Bengal Legislative Council building can be constructed for a sum of Rs. 1,00,000.

Rai SURENDRA NARAYAN SINHA Bahadur: Will the Hon'ble Minister be pleased to state whether members of this House will get an opportunity of considering the recommendations of the Committee regarding plans and estimates?

The Hon'ble Khwaja Sir NAZIMUDDIN: I may inform the members of this House that the President of the Council is being continuously consulted and nothing is being done without consulting him beforehand.

Rai KESHAB CHANDRA BANERJEE Bahadur: Will the Hon'ble Minister be pleased to state what is the total estimated expenditure in connection with the new building?

The Hon'ble Khwaja Sir NAZIMUDDIN: No proper estimates have yet been put up but roughly it will be anything from fifteen to twenty lakhs.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: When was the Committee appointed and who appointed it?

The Hon'ble Khwaja Sir NAZIMUDDIN: It is a Committee consisting mostly of the members of the Cabinet, the Speaker and the President and officials of the various departments interested in the matter.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: When was this Committee appointed?

The Hon'ble Khwaja Sir NAZIMUDDIN: I think, about a month ago.

Mr. HAMIDUL HUQ CHOWDHURY: May I know which are the departments interested in the building of the Council?

The Hon'ble Khwaja Sir NAZIMUDDIN: The Legislative Department, the Public Works Department and the Finance Department.

Mr. HAMIDUL HUQ CHOWDHUURY: Is the rough estimate of fifteen to twenty lakhs of rupees meant only for building a house for the Council or for other purposes also?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not follow what the hon'ble member means by other purposes. It will be for nothing but for the purpose of the Legislative Assembly and the Council.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister take the opinion of this House as to the advisability of spending such a big amount for the Council?

The Hon'ble Khwaja Sir NAZIMUDDIN: As I have said, the budget provision will be discussed and no expenditure can be incurred without a provision being made for it in the budget.

Khan Bahadur ATAUR RAHMAN: Is the Hon'ble Minister aware that there is a keen desire of the members of this House to have a luxurious building for the Council and for other purposes?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have not correctly understood the hon'ble member. Does the hon'ble member mean that the members of this House want to have a luxurious house?

Khan Bahadur ATAUR RAHMAN: I mean a house befitting the dignity of the Upper Chamber.

The Hon'ble Khwaja Sir NAZIMUDDIN: That is the impression that has been created on Government from the various questions put in this House and the statements made here.

Rai KESHAB CHANDRA BANERJEE Bahadur: Will the Hon'ble Minister be pleased to state whether it is necessary to have a separate building for the Council or whether it is possible to arrange for the meetings of both the Houses at the same place and thereby save a lot of money?

The Hon'ble Khwaja Sir NAZIMUDDIN: Before I express any opinion as to what Government think, speaking from memory I may say that during the last session Government were often questioned for not having provided a separate building for the Bengal Legislative Council.

Mr. NARESH NATH MOOKERJEE: With regard to the probable estimate of rupees fifteen to twenty lakhs, are we to take it that the furniture and fittings will be included in the estimate or will an extra sum be involved?

The Hon'ble Khwaja Sir NAZIMUDDIN: Everything will be included.

Khan Bahadur ATAUR RAHMAN: Is the Hon'ble Minister aware that a small Government like Assam has got a separate building for its Council with twenty-six members?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have got no official information but I believe the hon'ble member is correct.

Mr. HAMIDUL HUQ CHOWDHURY: The Hon'ble Minister has stated that this matter will be discussed in the budget. Will the whole scheme be discussed or only the portion which concerns this one lakh of rupees?

The Hon'ble Khwaja Sir NAZIMUDDIN: One lakh of rupees will be provided in the budget and if an hon'ble member moves an amendment or a cut motion, the question can be raised in the budget discussion

in the Council, and if necessary, there can be a special motion. I may say, without consulting the Chief Minister, that Government would like to have the opinion of this House on this question and if any special motion is framed, Government may provide a day for discussion.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister be pleased to state whether this one lakh of rupees is the grant intended for the whole of next year or whether further amounts will be available if the building is to be completed within the next year?

The Hon'ble Khwaja Sir NAZIMUDDIN: I doubt very much whether a building requiring fifteen to twenty lakhs of rupees will be completed within a year. It will take much more time.

Rai SURENDRA NARAYAN SINHA Bahadur: Will the Hon'ble Minister be pleased to state whether the sum of Rs. fifteen to twenty lakhs will also cover the cost of land acquisition?

The Hon'ble Khwaja Sir NAZIMUDDIN: I may inform hon'ble members of this House that the idea is to construct the building contiguous to this building and in such a way that some of the things, viz., the prayer room, the library and the refreshment room may be common to both the Houses.

Rai SURENDRA NARAYAN SINHA Bahadur: Who will be the final authority for approving the plan?

The Hon'ble Khwaja Sir NAZIMUDDIN: Government, of course.

Rai Sahib INDU BHUSAN SARKER: Will the Hon'ble Minister be pleased to state whether a site has been selected for this building?

The Hon'ble Khwaja Sir NAZIMUDDIN: The site has not yet been definitely selected but it is bound to be within the compound of this Assembly building.

Rai Sahib INDU BHUSAN SARKER: In how many years will it be completed?

The Hon'ble Khwaja Sir NAZIMUDDIN: It all depends as to when the plans are approved and the estimate framed. I do not think it can be done in less than two years.

Rai Sahib INDU BHUSAN SARKER: If one lakh of rupees is provided in one year's budget, how long will it take to provide the entire sum of fifteen to twenty lakhs?

The Hon'ble Khwaja Sir NAZIMUDDIN: Unless there is some amount of money provided in the budget, no expenditure can be incurred by Government. So, as a preliminary for expenditure, some money has got to be provided. Once the preliminaries are over, then the whole thing can be taken in right earnest and if necessary, Government can come in with a supplementary demand later on.

Rai Sahib INDU BHUSAN SARKER: Will the Hon'ble Minister be pleased to state why it will not be advisable to allot Rs. four or five lakhs instead of one lakh?

The Hon'ble Khwaja Sir NAZIMUDDIN: Because, at the present time it is not necessary. In making budget provisions you have got to be very careful that you do not provide for money which you cannot spend during the course of the year. The Auditor-General then makes very adverse comments, and the reputation of the Government of Bengal in this respect is very high as they have been making budgets in such a way that there has never been a large accumulation of unspent money.

Attempt to embroil a student by a District Intelligence Branch Officer.

135. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether the attention of the Government has been drawn to a correspondence appearing in the *Ananda Bazar Patrika*, dated Calcutta, the 25th November, 1937, from its own correspondent, dated Mymensingh, the 22nd November last, with the headline "Attempt to embroil a student" as translated;

(*b*) whether it is a fact as appeared in that correspondence that an Assistant District Intelligence Branch Railway Sub-Inspector of Police, boarding a train at Shyamganj station and producing a bundle from near the suit-case of a student, Amalkrisna Mazumdar of Thakurkona, within the Netrokona subdivision, while he was travelling by the same train, asked him whether it was his bundle;

(*c*) if the answer to (*b*) be in the affirmative, whether on the said student answering in the negative, the bundle was opened and a firearm was found and whether that student was arrested;

(*d*) if the answer to (*c*) be in the affirmative, what is the name of the officer who made the arrest;

(*e*) whether it is a fact as appeared from that correspondence that on enquiry of the case by the Railway Police, the case was found false and the said student was let off;

(*f*) whether it is a fact that a departmental enquiry was subsequently held by the District Intelligence Branch Inspector of Police; if so, with what results;

(*g*) whether the Assistant District Intelligence Branch Sub-Inspector of Police who originally arrested the student aforementioned, appealed against the findings of the District Intelligence Branch Inspector to the Inspector-General of Police; if so, with what results;

(*h*) whether any step has been taken by the Government against the said Assistant District Intelligence Branch Sub-Inspector who arrested the said student; if so, what steps;

(*i*) whether the Government contemplate prosecuting the said Sub-Inspector considering the gravity of the incident; if not, what are the grounds of refusal to do so; and

(*j*) whether the Government will consider the desirability of abolishing the staff of travelling District Intelligence Branches; if not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) I noticed the incident as reported in the newspaper.

(*b*) Yes. He questioned him about the ownership of the bundle.

(*c*) Yes.

(*d*) Assistant Sub-Inspector Nagendra Chandra Sen.

(*e*) Nothing incriminating was found on enquiry, and Amal Krishna was bailed out.

(*f*) Yes. Proceedings were drawn up against the Assistant Sub-Inspector and he was dismissed by the Superintendent of Police, Mymensingh.

(*g*) and (*h*) His appeal against the order of the Superintendent of Police was rejected by the Deputy Inspector-General of Police, Dacca Range.

(*i*) On materials available it is not considered advisable to do so.

(*j*) The Intelligence Branch staff attached to Railways has been abolished.

Dr. RADHA KUMUD MOOKERJI: Sir, was this very abnormal case duly considered by Government so that they might frame rules which might put a stop to the repetition of a kind of offence that is an unqualified slur on police administration?

The Hon'ble Khwaja Sir NAZIMUDDIN: There is no rule so far framed which will prevent one or two rogues from committing rogery.

Dr. RADHA KUMUD MOOKERJI: Sir, if we follow press reports from time to time about these crimes, I am afraid they are by no means isolated cases. The other day a very grave charge was hinted at against the operations of Agents. My question is whether Government fully realize the ugly exposure which has been brought about by a single case, but the Government must not note that it is an isolated case. So I want the Government to take serious notice of what is not really an isolated phenomenon.

The Hon'ble Khwaja Sir NAZIMUDDIN: I would like to know which portion of the whole of that speech was a supplementary question.

Dr. RADHA KUMUD MOOKERJI: My supplementary question is this, whether Government realize the gravity of the offence committed by one of their employees, and if so, considering that these occurrences are not by any means rare or isolated, whether the Government will revise their rules so as to prevent a repetition of such grave offences.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I would first of all protest against this assumption that this is a common occurrence. Secondly, I would suggest, Sir, to you that most of it was an argument and not a supplementary question, and thirdly, Sir, I would point out that the gravity of the offence is realized by the dismissal of the officer and Government do not admit that this is common, but they consider it only a rare thing.

Mr. LALIT CHANDRA DAS: With regard to the answer arising out of (*i*), will the Hon'ble Minister be pleased to state whether the materials available were duly considered by Government to see whether it was a fit case for prosecution?

The Hon'ble Khwaja Sir NAZIMUDDIN: Certainly, Sir.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state what are his reasons for considering this to be an unusual and exceptional case?

The Hon'ble Khwaja Sir NAZIMUDDIN: Because, this is a sort of thing not done by the police.

Appointments in the Police Department.

136. Mr. NUR AHAMED: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) how many persons have been appointed in all sections of the Police Department in Bengal during the last five years;

(*b*) out of these, how many are Moslems and how many are non-Moslems;

(*c*) whether there is any circular regarding appointment of Moslems in this department; if so, what is the percentage laid down therein for employment of Moslems;

(*d*) how many police sub-inspectors have been promoted to the post of police inspectors during the last five years;

(*e*) out of these sub-inspectors, how many were Moslems and how many were non-Moslems;

(*f*) what is the total number of police officers including constables now employed in the district of Chittagong; and of these, how many are Moslems and how many are non-Moslems; and

(*g*) how many inspectors and sub-inspectors are there in the district of Chittagong; and of these, how many are Moslem inspectors and how many Moslem sub-inspectors?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) and (*b*) A statment is laid on the table.

(*c*) Yes. The percentage fixed for direct Muhammadan recruits to fill up vacancies in different ranks not reserved for departmental officers are:—

Bengal Police.

Sub-inspectors—50 per cent.,

Assistant sub-inspectors—50 per cent.,

Calcutta Police.

Sub-inspectors—33⅓ per cent.,

Assistant sub-inspectors—by promotion,

Constables—33⅓ per cent.,

subject to there being enough Muhammadan candidates possessing required qualification.

Vacancies in other subordinate ranks of the Bengal and the Calcutta Police are filled by promotion on merit having regard to seniority as well.

(*d*) and (*e*) The figures in the statement furnish the required information.

(*f*) The number in the subordinate ranks from inspector downwards is 839, of whom 155 are Muhammadans and 684 non-Muhammadans.

(*g*) Inspectors—9, of whom one is a Muhammadan. Sub-inspectors—43, of whom 17 are Muhammadans.

Statement referred to in the answer to question No. 136, showing the number of appointments made during 1932 to 1936 in the ranks of the Subordinate Police.

	1932.			1933.			1934.			1935.			1936.		
	Muhammadan.	Non-Muhammadan.	Total.	Muhammadan.	Non-Muhammadan.	Total.	Muhammadan.	Non-Muhammadan.	Total.	Muhammadan.	Non-Muhammadan.	Total.	Muhammadan.	Non-Muhammadan.	Total.
Inspectors ..	5	18	23	..	8	8	6	13	19	*6	15	21	13	23	36
Sub-inspectors ..	32	43	75	48	60	108	24	43	67	28	47	75	35	53	88
Assistant sub-inspectors ..	23	59	82	23	47	70	28	72	100	41	90	131	24	51	75
Head constables ..	18	64	82	12	57	69	30	64	94	33	83	116	19	41	60
Constables ..	816	1,321	2,137	521	1,100	1,621	541	1,105	1,646	523	920	1,443	621	1,097	1,718

*Including 1 deputed from North-West Frontier Province for Kabuli guard.

Allowance to released Detenus.

137. Mr. MOAZZEMALI CHAUDHURY: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) how many detenus have been granted Rs. 15 monthly allowance since their release by the 20th of January, 1938;

(*b*) whether Government sanction additional allowances to those released detenus who have been declared even by Government Medical Officers as suffering from tuberculosis and other serious diseases;

(*c*) how many released detenus are suffering definitely from tuberculosis which they contracted during their period of detention;

(*d*) what is the amount of allowance granted to each of them for their proper treatment;

(*e*) in how many cases of the released detenus family allowance has been granted apart from personal allowance;

(*f*) how many detenus have applied to the Government by the 20th of January last, for their personal and family allowances and for medical allowance; and

(*g*) how many of these applications have been disposed of, and how many are still pending, and how many have been refused?

The Hon'ble Khwaja Sir NAZIMUDDIN: I regret that the statistical information required by the hon'ble member is not readily available and could not be collected without an expenditure of time and labour which Government are not prepared to undertake. The payment of the Rs. 15 monthly allowance for instance is made by district authorities and does not depend on individual orders from Government. The same applies to the continuance of family allowance in such cases. If I may be allowed to speak in general terms, I may assure the hon'ble member that I am always prepared to examine the individual case of sick detenus on their merits, and I can say from personal knowledge that in many cases financial assistance beyond the legal liability of Government has been given.

Mr. HAMIDUL HUQ CHOWDHURY: May I know from the Hon'ble Minister what is the actual total amount that they are going to spend in providing allowances of Rs. 15 and also allowances to the families of those detenus who have been released?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice. It is very difficult to tell this offhand.

Mr. HAMIDUL HUQ CHOWDHURY: Am I correct if I say that for detenus themselves it will come to about 1 lakh of rupees?

The Hon'ble Khwaja Sir NAZIMUDDIN: It may be a little more.

Detenus in Home Internment.

138. Mr. MOAZZEMALI CHAUDHURY: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) how many detenus are still in home internment on the 20th of January, 1938;

(*b*) how many of them are in home internment for a period exceeding three months;

(*c*) what are the minimum and maximum period of home internment of these detenus;

(*d*) (*i*) whether their internment is due to police reports, and

(*ii*) if so, whether they have been informed of the allegations made against them by the police;

(*e*) whether it is a fact that these detenus are interned in home because they are considered less dangerous than other detenus; and

(*f*) what are the reasons for which the Hon'ble the Home Minister's promise to let all home internees free has not been given effect to?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) The number constantly alters, but when checked on 10th January, 1938, was fifty-two.

(*b*) Thirty-four.

(*c*) No minima or maxima have been prescribed.

(*d*) Their internment is in accordance with the provisions of sections 2 and 9 of the Bengal Criminal Law Amendment Act, 1930.

(*e*) The degree of restriction imposed is what is necessary to meet the facts of the individual case.

(*f*) No such promise has ever been given.

Mr. LALIT CHANDRA DAS: Arising out of (*c*) will the Hon'ble Minister be pleased to state what was the maximum period suffered in home internment?

Mr. PRESIDENT: By maximum you mean the longest period?

Mr. LALIT CHANDRA DAS: Yes, Sir.

The Hon'ble Khwaja Sir NAZIMUDDIN: It is impossible to say, considering all the detenus together, the figure, because we do not know. There are so many detenus, they have been in home internment at various times for over a number of years.

Mr. LALIT CHANDRA DAS: Was any attempt made by the Government to ascertain what was the longest period of time in home internment of these detenus?

The Hon'ble Khwaja Sir NAZIMUDDIN: As I stated, it would take such a long time and such a tremendous amount of labour to go through at least three to four thousand files and find out which of them has suffered the longest term. The Government regret, they cannot undertake the work.

Marketing scheme of Agricultural Produce.

139. Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state—

(*a*) whether any scheme for the marketing of agricultural produce has been formulated by the Marketing Officer of Bengal;

(*b*) if so, whether any action has been taken or any scheme has been put into operation as a consequence of the recommendation of the Marketing Officer; and

(*c*) what actions are being taken on the report of the Provincial Jute Committee appointed by the Government of Bengal specially to organise jute marketing?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) If the hon'ble member means to ask if any comprehensive scheme for the marketing of all kinds of agricultural produce has been formulated, the answer is "No."

The Marketing Officer has been engaged on a survey of the marketing conditions for certain commodities.

(*b*) Schemes for grading of hides, eggs and oranges have been put into operation.

(*c*) The late Government took no action on those recommendations. At present I am investigating the question of improved marketing arrangement for jute, and my proposals in that connection will appear in my budget speech.

Mr. HAMIDUL HUQ CHOWDHURY: Arising out of (*c*), does the answer indicate that the Government has taken a decision and are going to introduce some scheme after the introduction of the budget?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I would request the hon'ble member to look into the papers of my budget speech.

Mr. HAMIDUL HUQ CHOWDHURY: What I want to know is: is there any scheme which is going to come into operation after the budget? The budget will only provide for money.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: The Government has no scheme to put into operation after the budget speech.

Salary cut in the Provincial Services.

140. Mr. SACHINDRA NARAYAN SANYAL (on behalf of Mr. H. P. Poddar): (*a*) Will the Hon'ble Minister in charge of the Finance Department be pleased to state whether he is aware that the Madras Premier has notified a salary cut in the Provincial Services of the Madras Government?

(*b*) Is it a fact that there is no such proposal for a cut in salary in Provincial as well as in Subordinate Government Services of Bengal?

MINISTER in charge of the FINANCE DEPARTMENT (the Hon'ble Mr. Nalini Ranjan Sarker): (*a*) Yes.

(*b*) A general reduction in the pay of all Provincial and Subordinate Services and posts carrying a monthly pay of more than Rs. 80 was effected between 1934 and 1937. Similar revisions were carried out in the other Provinces. I propose to circulate a statement when introducing the Budget which will show the nature of the reductions effected in Bengal and that the resulting scales compare favourably with those adopted elsewhere. A further general reduction of the pay of Provincial and Subordinate Services is not contemplated by Government, but the possibility of reducing the maximum of some of the time-scales, for future recruits and for persons promoted outside the ordinary line of their service, is under examination.

Mr. LALIT CHANDRA DAS: Arising out of (*a*), is it not a fact that there has been effected a great reduction in salary in the Madras Government ranging from 5 to 30 per cent.?

The Hon'ble Mr. NALINI RANJAN SARKER: Yes.

Mr. LALIT CHANDRA DAS: Has it ever been in Bengal service any such salary cut ranging between 5 to 30 per cent.?

The Hon'ble Mr. NALINI RANJAN SARKER: In some instances it was more than that when the scales of pay were revised in 1934.

Short-Notice Question.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether Mr. Niharendu Datta Mazumdar and Mr. Ananta Mukherjee were arrested at Comilla station while they were proceeding on tour for making preparation for the ensuing session of the All-India Kishan Conference to be held there during the next Easter holidays;

(*b*) whether it is a fact that Mr. Momin and Mr. Bankim Chakravarty, two other labour leaders, were also arrested on February 2 on their arrival from Calcutta to Comilla and sent back to Calcutta at Government expense;

(*c*) whether Mr. Niharendu Datta Mazumdar and Mr. Ananta Mukherjee are being prosecuted; and

(*d*) whether it is a fact that the Government proposes to obstruct the freedom of views and freedom of association of persons connected with the All-India Kishan Conference which is proposed to be held at Comilla during the Eastern holidays?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) yes,

(*b*) (*1*) yes,

(*b*) (*2*) I have no information,

(*c*) yes,

(*d*) no.

Mr. KAMINI KUMAR DUTTA: Was any intimation given by the local authorities to the Government here before they did take that step?

The Hon'ble Khwaja Sir NAZIMUDDIN: No.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state whether Government intends to hold any enquiry into this matter?

The Hon'ble Khwaja Sir NAZIMUDDIN: No.

Mr. NARENDRA CHANDRA DATTA: Does the Hon'ble Minister propose to withdraw the case against Mr. Niharendu Datta Mazumdar and others in view of the statements they have made before the Magistrate that they had no intention to disobey their orders and that they were arrested under a misapprehension.

The Hon'ble Khwaja Sir NAZIMUDDIN: I have no information about the statement.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state whether he thinks it proper to enquire whether the application of the Suppression of the Terrorist Outrages Act was fair and proper in this case?

Mr. PRESIDENT: I do not allow this question. It is out of order. Is there any other supplementary question?

Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister be pleased to make an enquiry about the statements I have referred to and take steps if possible, to withdraw the prosecution?

The Hon'ble Khwaja Sir NAZIMUDDIN: I will call for a report about the statements.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Will the Hon'ble Minister be pleased to consult legal advice to the comments in newspapers about the proceedings of a case which is *sub judice*?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not understand the hon'ble member. Will he please repeat the question?

Mr. KRISHNA CHANDRA ROY CHOWDHURY: I read in the newspapers comments about the proceedings in connection with this case which, to my mind, as a layman, appears to be criticism of the case which is *sub judice*, but is the Government making enquiries about taking action?

The Hon'ble Khwaja Sir NAZIMUDDIN: That will be looked into.

GOVERNMENT BILL.

Bengal Tenancy (Amendment) Bill, 1937.

Mr. PRESIDENT: The House will now resume further discussion of the motion that the Bengal Tenancy (Amendment) Bill, 1937, be circulated for the purpose of eliciting public opinion thereon by the 30th April, 1938.

Mr. HUMAYUN KABIR: Sir, I was yesterday discussing the motion for circulation moved by the Maharaja of Santosh and to-day I should, before I proceed to criticise any further his speech of yesterday, like to draw your attention to section 85 of the Bengal Legislative Council Rules and Standing Orders in terms of which it is not clear to my mind if a motion for circulation——

Mr. PRESIDENT: Order, order. That point of order should have been raised when the motion was moved.

Mr. HUMAYUN KABIR: If that is so I shall proceed with my speech. I was afraid that you might rule me out of order and so I wanted to be sure of my own position. However, yesterday we were discussing the speech of the Maharaja of Santosh and as I suggested, while admiring the beautiful periods of his speech, one could not but wonder at the illogicalities which it contained from the beginning to the end. For one thing, he suggested that this Bill was going against the provisions of the Government of India Act, 1935, and was, as such, *ultra vires*. Again he suggested that this Bill was not going to benefit the raiyats and certainly not the landlords. According to him, therefore, it was a Bill which would not do any good to anybody whatsoever. And yet, in spite of these two very good reasons for squashing a Bill which is *ultra vires*, bad in principle and thoroughly injurious to everyone concerned, he wanted to move that it should be circulated for eliciting public opinion thereon! In that connection, he based his arguments upon certain contentions which, I think, is necessary to examine in this House. One was the question of the irrevocability of the decrees and statutes made by the State and the other was the question of the proprietory rights or otherwise in the land of the landlords of Bengal. With regard to these questions, I think, I shall be voicing the opinions of a very large section of people in this country if I say that there is a very great deal of difference of opinion as to where the proprietory rights in the land really lie. If the question of expropriation is raised at all, I do not want to go into the question to-day, it is, at the least, a doubtful issue as to who expropriated whom. If there was any expropriation, it was the peasant, the

actual tiller of the soil who was expropriated at the time of the Permanent Settlement. If there was no expropriation, how is it that the man who is in actual physical possession of the land, the man who operates on the land is deprived of his rights by those who, in the opinion of many students of history, are only a set of rent-collectors? Therefore, on my own behalf and on behalf of the party to which I have the honour to belong, I would reject the claims to any vested rights in the land which the landlords have advanced from time to time. But leaving aside that difficult question and the question about the statutory rights given by the Permanent Settlement, there are also other difficulties, in the way of the Maharaja, for every State reserves to itself the ultimate authority to legislate on matters affecting its prosperity.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: On a point of order, Sir. Are we not going too much into the merits of the case? This motion is for circulation for eliciting public opinion, and I submit that, the hon'ble member ought to stick to the point.

Mr. PRESIDENT: Order, order. Both the motions are before the House. The motion that has been moved by the Hon'ble Minister as well as the amendment moved by the Maharaja of Santosh are under discussion. I cannot preclude any member from discussing the merits of the Bill.

Mr. HUMAYUN KABIR: Mr. President, Sir, I have raised this question only because it was discussed in the motion of amendment yesterday. And if it was in order when the motion of amendment was moved, I do not see any reason why any objection should be taken when a reply is being attempted. I fail to understand how the Hon'ble Minister, with whom on this particular point I find myself in agreement, should oppose an argument which is really in his favour.

A member: He does not like your argument.

Mr. HUMAYUN KABIR: That question will come up later.

However, to proceed with the argument. If we are to accept the second proposition put forward by the Maharaja, that once the State has passed a decree it should be treated as irrevocable and would be permanently binding on every one who comes afterwards, I would submit only one point to him. I would ask him to consider this. If the Coalition Party, which is in power to-day in this province, passed a law that no caste Hindu would be taken in the Cabinet of the Government of Bengal, would he consider it fair that it should be binding on him and his successors? I am sure the Coalition Party will not do anything so foolish, but supposing they do it, would the

Maharaja and his descendants accept it as an eternal and irrevocable decree of the State? And I take it, Sir, that a statute like the Permanent Settlement, which it is said wants to give irrevocable rights to a class of citizens, is a law exactly of that nature. For a State to deny its power of legislating in any way it deems necessary, is really to negative its own existence. However, Sir, all the arguments advanced by the Maharaja are really beside the point, because they do not in any way strengthen his case for sending the Bill for circulation for eliciting public opinion. Are we to understand that the public of Bengal are unaware of the issues which are dealt with in this Bill? Are we to understand that the public of this province never expressed any opinion on these questions? Are we to understand that during the elections, when the various parties pledged themselves to a policy of land reform, the public were unaware of the principles of land reform legislation? These questions were discussed at the time of the last general election, and it cannot be said that the public were asleep and unconscious of the vital issues involved. Are we further to understand that when the provisions of this Bill were discussed threadbare in the Lower House and were thoroughly examined in all their implications, the discussions on the Bill were not reported in the press or that the public did not follow with interest what was happening? I, therefore, submit that the motion for circulating the Bill for eliciting public opinion cannot be considered seriously by this House, and I would end by reading a short passage from a paper which no one can accuse of being either a supporter of communism, or of being a revolutionary paper, or being extreme in any way. In fact, it is a paper which is generally taken to be too moderate by most of us—I refer to the *Statesman* of Calcutta. With your permission, Sir, I shall read a short paragraph from its editorial of yesterday. It runs as follows: "Those who oppose land reform in Bengal would, if they were successful, be taking on themselves a very heavy responsibility for a future which, we doubt not, would be marked by grave disorders. When reform is overdue, those who delay it further become the unconscious agents of revolution. We may be sure that a measure on which the main body of Government supporters and the Opposition concur despite its injury to some vested interests, has not come into being without the knowledge that the abuses it sets out to remedy are a cancer in the Province."

Rai KESHAB CHANDRA BANERJEE Bahadur: On a point of information, Sir. Is the hon'ble member reading out from the editorial columns of the *Statesman* or from the correspondence columns?

Mr. HUMAYUN KABIR: I think I have already stated that I was reading from the leader of yesterday's *Statesman*.

Sir, I would only conclude by saying that the Maharaja, by attempting to obstruct the passage of this Bill, by proposing to circulate it for eliciting public opinion, is really acting unconsciously as an agent of the communists of whom he seems so afraid. Communism is a word which often serves to protect the vested interests of the few, who want to resist all progress by force. And I would put it to him that by raising false issues in this way, he is only acting as an agent of that social disruption which would probably go very much further than would be the case if this Bill were now passed into law.

Mr. SACHINDRA NARAYAN SANYAL: Mr. President, Sir, I rise to lend my support to the amendment moved by the Maharaja of Santosh, although I do not subscribe fully to his views in support of his proposal. We are unanimous that there is ample scope for improvement in the land question in the province, which must be based on reasonable and equitable adjustment between the landlord and the tenant so as to avoid any conflict between the class and the mass.

I am inclined to think that the proposed legislation does not clearly define who is "cultivator" and pays no thoughtful and adequate attention towards the relations between the landlord and the tenant. Before taking up the legislation it is, therefore, essential that it should be given much more careful consideration than we shall be able to give it here. By eliciting public opinion on this important piece of legislation, we shall have better acquaintance with public feeling and be in a position to present a measure acceptable to all. The 1928 amendment was based on a compromise and has worked well. There is, therefore, no reason why we should not succeed this time too. Pray, do not decide anything in haste, let there be proper investigation before rushing into legislation.

Sir, so far as I can understand it is the intention, of the Hon'ble Minister to give some relief to the tenantry. In some quarters there has been an apprehension that the zemindars were not providing adequate relief to the tenants, but this was a false cry. The landlord and the tenant have lived in peace and amity for hundred and fifty years, on mutual goodwill. Any hasty measure is likely to mar that cordial relationship.

Sir, I will not go into the details of the legislation at this stage but would only state that sufficient safeguards have not been provided against the intrusion of the unscrupulous middlemen in the land system of Bengal, who treat the raiyats as slaves.

Sir, I do not support the amendment with a view to obstructing the legislation in any way. I want to see that the real raiyat be given his rightful place in the scheme of agrarian reform in the province. When we have tolerated delay so long, it would not matter much if we wait for a few months more with a view to examining this difficult piece of

legislation in all its aspects and in arriving at a decision which would be conducive to the welfare of the tillers of the soil.

Dr. RADHA KUMUD MOOKERJI: Sir, I want to take advantage of the ruling that you have been pleased to give just now so as to give a member liberty to consider the two questions that are now before the House: the question of the consideration of the whole Bill and also the question of its circulation that has been put by an hon'ble member. I feel that a man in politics has to owe several loyalties. There is a loyalty to the party to which he belongs, there is a loyalty to the House of which he is a member, especially the Upper House which has its own distinctive place in the Constitution. There is a sense of loyalty which he owes to his country which is above party, and lastly, there is the primary loyalty which a member owes to truth and to history. I feel that whatever I am going to say must be based on this primary sense of loyalty to truth and history, as I understand it from my reading of history and facts. I am sure that every member of this House will have to acknowledge that the particular piece of legislation that has been before the House is a contentious and controversial measure which has given rise to some amount of difference of opinion; but I venture to say, Sir, that all of us must agree about one fundamental point, namely, the urgent need of agricultural reform, the urgent need of promoting certain vital interests which are at stake—the interests of the underdog, the interests of the down-trodden peasantry of Bengal. I believe even a zemindar, a conservative and die-hard like my hon'ble friend the Maharaja of Santosh, also cannot escape from the fundamental assumption that I am making that we are all here to serve the interests of the underdog to-day, and what is the harrowing picture that I am able to present before you on the basis of unanswerable facts. The outstanding fact of India—not merely of Bengal—is that every Indian peasant to-day is insolvent, bankrupt and on the verge of starvation. You may set up Debt Conciliation Boards, you may adopt measures for the reduction of agricultural debt—but what measures do you adopt for the poor Indian peasant who is daily running into debt for a venture which is not economically feasible; so let us all put our shoulders to the wheel, in response to the cry from the toiling tillers of the soil—"Help us ho! We are down in the mire". What are the zemindars going to do in order to solve this big problem on this subject of the established insolvency of the Indian peasant? It is a case of insolvency of the most national concern of India, because India has been acknowledged to be an agricultural country, India is a land of people who are hewers of wood and drawers of water, because India has not been industrialised. Undoubtedly her national key industry is agriculture and we have allowed the agriculturist to become completely insolvent. On this subject highly authoritative evidence was led by some of the highest experts at the time of the

Ottawa Agreement and their finding is that the insolvency of the Indian peasant is easily understood from one very simple fact. The peasant grows out of his land produce for which he does not get enough price. We are all very anxious as a result of strikes and trade union preasure to try to fix fair wages for the workmen. But the evidence that was led at Ottawa showed that the Indian peasant is unable to pay his way for the simple fact that what he earns is not enough to cover the expenses of the few necessaries of his life that he has to buy. It has been investigated that the poor peasant must buy a little kerosine oil, must buy a little salt and must go in for some amount of clothing and the price of the produce that he gets has gone down for factors which are beyond his control. It has been calculated that whereas India's export prices have gone down by 53 per cent., the import prices have gone down only by 13 per cent. Therefore the Indian peasant has not got the wherewithal with which to buy the few necessaries of life without which he cannot live. It is on the basis of the evidence of no less an authority than Sir James Stakosch that I say that unless the Indian agriculture is set on its feet and made economically sound, there is no hope for India. You cannot build up Bengal on the basis of starving peasants, and therefore we all must agree that very urgent reform is needed in the matter. Now I fully agree that the legislation just now proposed is, what may be called, a sort of piecemeal legislation which does not go far enough. The point of view which I and my great party hold, is that the present legislation falls far short of the requirements of the interest which we are out to serve. Some of the benefits which this legislation proposes to offer, do not go far enough. Sometimes it is held in some quarters that the benefits stand half-way—do not reach the toiling tillers of the soil.

Now, as I have said, the situation in which we find ourselves is indeed a desperate situation, but I want you all to rise above controversy in regard to the particular legislation before us in order to realise the seriousness of the consequences which are facing us. This particular measure no doubt is a part of the entire land system of the Province. It is a system upon which has been built up Bengal's social order and economic system, and I may go so far as to say that even the revenue system of the Province depends upon that, and, therefore, as a historian, I must place before the House a complete picture of the totality of interests which may be affected that we may not confine our attention to the narrow limits of the particular legislation which is before us.

Now I find that the past history has been the cause of much controversy. This much-maligned Permanent Settlement was imposed upon Bengal by the rulers themselves. The East Indian Company badly wanted help by which it could build up the British Dominion in other parts of India outside Bengal; so Bengal was bled, in the first instance. Whereas under the Dewani system the Company got a revenue of three and a half crores from the then Province of Bengal, Bihar and Orissa, that revenue was uncertain. The East Indian Company wanted to have

the foundation of British rule in India secured by having a guaranteed revenue at an enhanced rate. Now in those days, previous to the era of Permanent Settlement, Bengal was placed under a curious system of Dyarchy and naturally there was the inherent evil of the system of Dyarchy with the result that Bengal had to suffer from the terrible famine of 1776, whereby a third of the population of the Province was swept away by a system which divorced power from responsibility. Therefore the rack-renting East India Company which became the Dewan was responsible for a great catastrophe that happened in Bengal. Now I say that to devise a system of raising revenue, the Company hit upon this plan whereby it could carry on its political purposes. Therefore it made the Permanent Settlement on the basis that those who will be in charge of collecting revenue under the system, the farmers of revenue, must pay 90 per cent. of their collection. I dare say even now nobody can enter upon any business on that particular condition, namely, that 90 per cent. of the amount earned would be annexed by another party. However, the zemindars were caught in this trap. Some of them had to declare themselves insolvent very soon and some of their old houses cannot now be traced, though there may be a few noble descendants of some old houses adorning the Council here. That is another story.

The British Government thus got a very good start out of the peasantry of Bengal, four and half crores of immediately settled revenue by means of which Bengal had to finance its wars in the Decan, in Madras and in Bombay. In those days Madras and Bombay were deficit provinces. They were unable even to pay the expenses of their civil administration and yet we all know what Federal Finance has meant for Bengal. A time must come before Federation starts when our worthy Finance Minister must put Bengal's case most vigorously before the Central Government, so that we will have an account made and the centre must refund the money that Bengal has been paying for a hundred and fifty years. For whom? Not for the zemindars, but for the cause of the British Government in founding its dominion all over India. Even during the three years, 1780-1784, Bengal had to send away about three crores of rupees in order to finance the wars in other parts of India. Well, that is another point and besides, that is a mere historical case. I have calculated that the Permanent Settlement has directly yielded a revenue of four and a half crores to Government, but we may say that in dealing with this system, and by this system I mean a system in which the whole of Bengal is concerned and involved, I do not think that we are considering the interest of a mere class, of a microscopic minority like the so-called zemindars. What I mean to say is this, that we must realise the full significance of what the land system that had been established a hundred and fifty years ago in Bengal means to all of us. It means an annual revenue of seven crores of rupees—four and a half crores from

Permanent Settlement, three and a half crores from the consequences of Permanent Settlement—a harvest which we are reaping to-day in arranging our revenue system and in producing our balanced budget. If calculation is made in this way, the revenue from Stamp duty amounts to about three crores and it has been calculated that 60 per cent. of the Stamp duties is made up of revenue suits and 90 per cent. out of money suits also are for kistibandi and therefore directly or indirectly from the Permanent Settlement, the Bengal Government still gets a revenue of seven crores of rupees, out of the total revenue of eleven crores. Now this is the system that is supposed to be out-growing the needs of the times.

We cannot raise our voice against what has been done. We must look forward to the future. I have also calculated that at present this land system involves fifty-seven lakhs of holdings and if you bar out the higher zemindars by this standard that they must have an income of at least Rs. 12,000 per annum, you will find that there are only seven hundred such landlords in the whole of Bengal out of a total population of fifty millions. Therefore they really are a microscopic minority in the picture. What is of most consequence is that the entire landed interest of the province involves the bulk of its vast population. I have further calculated that a net income of about ten and a half crores is intercepted by the landlord class, while the gross income from land amounts to about fifteen or sixteen crores. If we deduct the charge of collection as 10 per cent., if we deduct land revenue, if we deduct cess, we find that net sum of ten and a half crores has been intercepted by the zemindars. If we take fifty-seven lakhs of holdings to be under superior landlords and if we give to a holding at least three co-sharers, we find an income of Rs. 6 per head per such landholder. This system is really supporting about half of Bengal's population. As you know, Bengal is still intrinsically the richest province in the whole of India. Her gross revenue is thirty-eight crores of rupees, but on account of deductions by the Centre, her residual revenue amounts to about eleven or twelve crores. But there is no gainsaying the fact that the intrinsic wealth of Bengal is the highest on record in India. Bengal is artificially reduced to the condition of the poorest province in India. We have a sore financial quarrel with the Centre always and we must carry on this fight up to the end. What I am going to say is: how is Bengal so rich? All her wealth comes from her prosperous middle class which is really accountable for her high purchasing power, which again is reflected in the highest income-tax receipts which Bengal pays to Centre. Bengal, you know, is the richest province in India in regard to the receipts from income-tax. Therefore I say that this purchasing power of Bengal is bound up with the most important industry of Bengal, viz., the land industry, agriculture; so that if we want to rehabilitate agriculture, if we want to set the peasant on his feet again, we must not be carried away by the idea that we can do so

by merely depriving another class of its right. Nothing of the kind. We must take this supreme industry of India more paying, more economical, more yielding of benefits to the rural peasants who have been driven to the verge of starvation, inspite of the fact that on the basis of this industry has been reared up a prosperous middle class which is paying so much to the revenues of Bengal and to the Federal Government.

Now as regards agricultural reform, no doubt it is a matter which requires a complete investigation by experts. Of course Government has already announced the policy of appointing a sort of a Committee of Experts to go into the whole question. But pending that we must move in the right direction, we cannot wait. Now the whole field of agricultural reforms about which there cannot be any doubt, must comprise the following simple methods:—

Firstly, if you want to make agriculture self-supporting and economical, you must not have excessive fragmentation of holdings, you must see that each holding is an economic unit.

Secondly, uncertainly of tenure must cease. The fundamental principle of agriculture reform is that the standard of cultivation, and the level of farming would be higher where the instinct of proprietorship is more in operation and therefore we must restore to the tiller of the soil a sense of his proprietory right, so that he may have full scope for his work and therefore, I say that No. 2 reform should be the abolition of uncertainty of tenure.

Thirdly, there must be reduction of agricultural indebtedness and abolition of high rate of interest.

Fourthly, we should check easy and rapid transfer of holdings to non-agricultural money-lenders. I believe that on all these items there will be an absolute unanimity of opinion, because here I am speaking for the mute millions, the masses who are actually working with their hands on the soil. The next provision is that in every local area there should be thrown open facilities for the grazing of the live-stock. You cannot ignore the claims of the dumb animals who are assisting human labour and agriculture; and therefore there must be provision for common grazing grounds at the cost of the zemindars or even at the cost of the state. The 6th item is the provision of irrigation facilities and, lastly, we must assure to the peasantry a fair price of the produce of land. Further, there is the Congress programme all over India for the provision of subsidiary occupation by means of which we can give work to the peasant when he is out of work during the off season—not merely to the peasants but to his dependants as well. We must view the household of the peasants as a unit by itself, and all your legislative enactments must be directed to making happy the down-trodden peasantry whose interests should not be overshadowed by the intervening interest

of other classes that have grown up in the course of history. My last point on the present occasion would be that between the superior landlords and the tillers of the soil below, there have intervened any number of tenure-holders. There is a chain of rent-receivers and rent payers all along the line and at each stage there is always an increased rent, so that, although the so-called superior landlords get an average of Rs. 3 per acre per annum, the lowest rent so far as compared with United Provinces, Orissa and Madras, down below the peasant pays Rs. 15 per acre. This is a very anomalous state of things. We must sweep away this abuse of the system. Your legislation is more in the interests of non-cultivating raiyats, whom I class as zemindars, for I cannot distinguish between rich and small zemindars. So if your legislation stops only half way and promotes the interests of a class which does not cultivate, but simply are tenure-holders, simply money-lenders, then in that case we must, on behalf of Congress, fight such legislation. We must carry its benefits further down to the masses, so that deep down in the economic structure we may be able to rehabilitate that particular national industry on which depends the future of Bengal and also the future of the whole of India. I do hope, Sir, that better sense will prevail in the Council and that the subject-matter of agricultural reforms, which is so urgent, and which no one can gainsay, will be efficiently handled so as to produce a real and far-reaching measure of importance which will immediately afford relief to our insolvent peasantry, so that Bengal might yet have a much better financial record in the shape of a higher purchasing power, and a higher level of prosperity which will filter down to the masses. Even now Bengal can stand forward as the richest province in India on account of the prosperity of its middleclass people, and this middleclass people again is bound up organically with the tillers of the soil. So the peasantry must be saved from destitution and starvation, and all your legislation must be directed to the benefit of the masses, the inarticulate masses below, to whose grievances it is our bounden duty to give expression to the utmost of our ability.

The Hon'ble Mr. NALINI RANJAN SARKER: But what is to be done about this Bill?

Mr. KADER BAKSH: Sir, I had no desire to take part in this debate. I heard the oration of Dr. Radha Kumud Mookerji with rapt attention but I have not been able to follow it very clearly. When twenty-five years ago I was a student, such lectures sounded very well in my ears but here we are now sitting as politicians and legislators. I do not believe in theory and theoretical things; I would like to have practical things. Dr. Mookerji has not given us any idea as to how this Bengal Tenancy Act can be improved so as to be beneficial to the inarticulate masses. He has given a very beautiful lecture like the professor

that he is. He is very able to deliver lectures like that, but, Sir, no practical suggestions have been given by him as to how to improve our land system. He has laid down five items——

Dr. RADHA KUMUD MOOKERJI: On a point of personal explanation.

Mr. KADER BAKSH: I do not give way, Sir.

Mr. PRESIDENT: Go on, Mr. Kader Baksh.

Mr. KADER BAKSH: My point is this, Sir. Dr. Mookerji is a big historian, to speak frankly. We also know something of history, but, Sir, he has not cared to go into the interior of the country. I must say that in my district of Dinajpur in the Rajshahi division 90 per cent. of the middleclass people are the tillers of the soil, or even may be more. There is no distinction between the tillers of the soil and the *jotdars*, whom we style as middleclass men. There may be people who have got no land, but who are classed among the middleclass like the professor, who are *jotdars* and the tillers of the soil and politicians and legislators—all in one. All these things are combined in me, Sir, on this side of the House. If the Bengal Tenancy Act has done any good, it has done so for the entire body of the tillers of the soil. Now, Dr. Mookerji has said that this amendment Act is a piecemeal legislation; so it is, Sir. I am a man who is satisfied with a half loaf, if he cannot get a full loaf. I do not want to sit idle when I do not get the whole loaf and be annoyed over it. Nothing of the kind, Sir. I am not a politician of that character, or a legislator of that type. I want reform but not revolution. Dr. Mookerji must remember the history of Rome that "Rome was not built in a day". So is the case with the reform of land legislation in Bengal. This Bill has been before the country for more than sixty or seventy years, and certainly it requires improvement. This improvement should be by gradation and not by revolution. We cannot revolutionise the whole world in a day. But we must improve it piecemeal. If you want to change all the clauses of the Bill, do so by all means. But where had Dr. Mookerji been so long? He did not make any attempt to make any ameliorative suggestions with regard to this Bengal Tenancy Act. Mr. Sanyal has said that there was a compromise, but, Sir, there was no compromise at all; I say that the zemindars made an unholy combination with the Congress party at the time the amending legislation was passed in 1928. I know all these things, Sir, in spite of the interruptions of my hon'ble friends. I was a member of that Council and we raised our voice against the passing of that Bill, but to no avail.

Then I beg to submit that this Bill, as it is, is not a model Bill but if we send it out for circulation at once because we want a better Bill, then we shall have to wait till the Doomsday. The best possible thing we cannot have in a day or two. We may sit here, put our heads together and find out some other better things, but in the meantime the peasantry will die out. If you sit tight and go on making delay for another five years there will be no scope for your realising the 20 per cent. *salami* and right of pre-emption, because the entire peasantry will be out of the land altogether. Now, this may be a hasty legislation but we require a hasty legislation, because the sore has become so big that it requires a hasty operation. I am a zamindar but I feel that the system of *nazarana, salami* and pre-emption is the worst form of taxation put upon the peasantry; it is just like a cobra. My hon'ble friend Mr. Sanyal has said that the tenants and zamindars have been living amicably and peacefully for the last a hundred and fifty years. It is not a fact. He says that this Bill must go to the public for opinion. Now, Sir, the public have formed their opinion on this question as regards the *salami*, enhancement of rent and pre-emption. If the Maharaja Bahadur and other gentlemen here had cared to know that, they would certainly have done so, but they are determined not to hear anything. In the country the opinion has been formed and they have seen it in the newspapers. If they deny it here, nobody can make realise the fact. Then, again, with regard to enhancement of rent, my friend has said that there is no scope for it. Everybody might have said that there is no necessity for this Bill, as it is, without further amendment. But unless the Bill is presented and passed immediately, there is possibility that we might not be able to do anything further for some time to come.

Several members: The question be now put.

Mr. PRESIDENT: My difficulty is that some of the groups have not expressed their views at all. In fact, not a single member of the European group has spoken on the subject. I would request Mr. Ormond to speak.

Mr. E. C. ORMOND: If it is convenient to the members of the House, we would defer our observations on this motion for circulation until we have the Hon'ble Minister's views.

Mr. PRESIDENT: If you so desire, I would ask the Hon'ble Minister to make a reply on this motion at this stage.

Dr. RADHA KUMUD MOOKERJI: On a matter of personal explanation, Sir. I and my party in an unqualified manner oppose any motion if that motion is meant to delay the passage of the Bill. I and

my party fully oppose the proposal for circulation on the ground of delay.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the substantive motion before the House is that the Bill be taken into consideration to which the Maharaja of Santosh has moved an amendment that the Bill be circulated for eliciting public opinion. In commending his motion to the acceptance of the House, the Maharaja has criticised and condemned the measure in the strongest language. He wanted to give expression to his feeling of indignation against the measure which according to him is going to help communism, to bring about a revolution in the economic structure of the country and is going to deprive the landlords of their statutory rights, rights that were conceded to them by solemn pledges given by the Court of Directors of the East India Company. Sir, I can well realise the feeling of the Maharaja and his group. The feeling is one of pangs of abdicating proprietorship. So it is only natural that he would resent any move on the part of Government to bring about an adjustment between the landlord and the tenant. First of all, I would request my landlord friends to read the signs of the time. Things are moving on and they cannot expect the society to be stationary. There is a strong feeling in the country that relief must be given to the tenantry and that immediately. In obedience to that demand from a very large majority of our countrymen, Government introduced this Bill for bringing about some changes in the Bengal Tenancy Act. Now, if this Bill were not introduced or if no attempt were made to soften down the ruffled feelings of the tenantry of Bengal, I for one am inclined to consider that Government would have contributed towards a revolution and a revolution which is their duty to avert. The Maharaja seems to think that by introducing this measure, Government are expediting revolution or introducing communism. On the other hand, I think that Government by introducing this measure is trying to stem the tide of communism and anticipate revolution by certain concessions which are unavoidable, just and fair. Sir, I would request my landlord friends not to put forward, merely technical objections, and seek protection behind the pledges that were given to the landlords by the Court of Directors a hundred and fifty years ago. As it was rightly pointed out by some of the members, the Legislature is the supreme authority and certainly the Legislature has the right to change the statute according to the exigencies of the circumstances and to the needs of the time. The Permanent Settlement which was introduced as early as 1793 was probably a very suitable measure at the time. But we have now arrived at a stage of society when substantial modifications in the land tenure system are necessary. Unless those modifications are brought about, there is a tremendous risk of the society being faced with a situation which the Maharaja

Saheb, my friends on this side of the House and Government would like to avert.

Sir, the next question is whether the Bill should be circulated for public opinion or should be taken into consideration. This matter has been before the public since 1928. The provisions of the Bill that has been introduced by Government seek to remove some of the changes that were brought about by the amending Act of 1928. Take, for instance, the right of *salami* given to the landlords as a *quid-pro-quo* for their agreeing to concede the right of transferability to the tenants.

The right of pre-emption is also a right which is co-related with the right of transferability. Abolition of those two rights are some of the important changes that this Bill seeks to bring about. Now, the public opinion in my view has fully crystallized these questions. These were the subjects that were agitated by the candidates before their respective constituencies during the last general election. The Congress members, the Mohammedan Proja Party, the members of the League and even those who represent the special constituencies had one and only one object in view, namely, to bring about an amelioration in the condition of the peasantry of Bengal. In unmistakable terms this assurance was given by members belonging to different groups, by candidates opposing each other, and in the midst of diversity there was at least uniformity on this one point, namely, that they were all striving to bring about improvement in the condition of the peasantry of Bengal. Now, the time has come for redeeming the pledges so candidly given to the constituencies by the members belonging to the different sections of the House, and Government in all fairness introduced this Bill for redeeming those pledges.

Mr. RANAJIT PAL CHOUDHURY: Sir, on a point of information. Will the Hon'ble Revenue Minister inform the House how the rent-free holders compare with the rent paying holders?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That question does not arise.

Mr. RANAJIT PAL CHOUDHURY: It is not for you to judge.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is not the matter before the House.

Sir, no useful purpose would be served by adopting the dilatory tactics of circulating this Bill for eliciting public opinion. I warn those who are anxious to postpone the evil day that by postponing the consideration of this Bill they may only bring greater disaster on the interests they are so anxious to safeguard. There must be an adjustment between the landlords and the tenants, and I for one, Sir, do

honestly believe that if this Bill goes through the House and if this Bill is placed on the Statute Book, feeling between the landlords and the tenants, which probably is not very cordial at the present moment, will soon improve, and both the landlords and the tenants would feel ever so much happier in the near future. I feel that a landlord who has not the interest of the tenantry at heart, who is not prepared to sacrifice *salami* or small things just to secure the goodwill of the tenantry, just to make the tenantry happy, does not deserve that position of a landlord. (Hear, hear). So I would request my landlord friends to look ahead and not to refuse to see beyond their nose. They should go forward and meet the tenants half-way instead of trying to stifle legislation by putting forward technical objections or taking shelter behind certain sections of the Government of India Act.

Sir, one important criticism of the Bill that has come from some members of this House is that the Bill does not go far enough, it does not confer any benefit on the tillers of the soil. I do not join issue with the critics on that point. The Bill does confer substantial benefits on the tillers of the soil.

Mr. PRESIDENT: Order, order. The Hon'ble Minister is not required to reply to the main question. He can only confine himself to the particular motion at this stage.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, in view of the ruling given by you, I do not propose to take more time of the House at this stage, but I would request the hon'ble members to agree to my motion and to reject the amendment moved by the Maharaja Saheb of Santosh.

Mr. NAZIRUDDIN AHMAD: On a point of information, Sir. There are various other motions on the list of business. By putting the question of circulation for eliciting public opinion now, will the other propositions stand or automatically go? That is the thing which I want to know.

Mr. PRESIDENT: The first motion that I shall put before the House is for the circulation of the Bill. If that is accepted, all other motions would fall through. If that is rejected, then I shall put the motion about the reference of the Bill to a Select Committee. If that is carried, of course the other motions would be lost.

Mr. E. C. ORMOND: Mr. President, Sir, before making any observations embodying the feeling of the group to which I have the honour to belong in regard to this motion for circulation, may I first ask for a ruling on a point of information or on a point of order? Sir, it will be appreciated that at this stage when a motion for circulation is being

proposed and debated, the decision of any group of this House or of any individual member will have to take the form of a decision as to the relative merits of circulation or of sending the Bill to a Select Committee or of proceeding to consider it. Now, Sir, before arriving at any decision on this motion of circulation, I submit it is logically necessary for any group or any member of this House to know what will be their position in regard to the next amendment when the motion will be for committal to a Select Committee. Because, Sir, the group to which I have the honour to belong do not favour the Bill as it stands at present. We have made our views abundantly clear in that respect. It is true that if the Bill was sufficiently modified so as to remove the evil which to our way of thinking it now contains, if the Bill was sufficiently modified so that it was in our view merely a good Bill to benefit the agriculturists, we might find ourselves in favour of that Bill, and to that extent and to that extent only we can say that we are in favour of the principle of the Bill. But, Sir, there are various vital features of the Bill which might be regarded by other persons as embodying the principle or the principles of the Bill with which we are not only not in favour but diametrically opposed. Therefore, Sir, I am asking your ruling on this aspect of the matter. Supposing this motion for circulation is lost, and supposing a motion is put before the House for sending the Bill to a Select Committee, will I, Sir, or other members who feel about the Bill in the manner that I do,—will we be entirely free to say afterwards if we do not find that the Bill is modified in a sufficient degree, that we oppose the Bill?

If we do not find that the Bill is modified in a sufficient degree so that we can approve of it, we will eventually have to reject it lock, stock and barrel. I would be very much obliged if you would let me have a ruling on that point because it depends on your ruling on this point as to our attitude towards this motion for circulation.

Mr. PRESIDENT: The motion just now before this House, is for the circulation of the Bill for eliciting public opinion thereon. The acceptance of this motion does not commit the House to the principles of the Bill, but the next motion for reference of the Bill to a Select Committee, if accepted, would commit the House to the acceptance of the principle of the Bill. From the Statement of Objects and Reasons it is clear that the main principle underlying the Bill is to lessen the burden on the cultivator as it is most urgently required. Acceptance of the motion for reference of the Bill to a Select Committee will commit the House to that principle, and the particular member or the groups of members would merely stand committed to that principle, but if, however, they find that in the Select Committee it would not be possible for them to modify the present Bill to their satisfaction, they will be perfectly free not only to vote against the particular

clause when it comes for consideration of the House, but also to vote against the passing of the Bill as a whole.

Mr. E. C. ORMOND: I am very much obliged for the ruling. Now, Sir, with regard to the motion which is now before the House that the Bill be circulated for eliciting public opinion, the group to which I have the honour to belong have made their views extremely clear as to their opinion of the Bill as it stands at present. In another place, Sir, if I am permitted to refer to that, the party to which I have the honour to belong voted in favour of circulation, and on that footing it might be thought that there were certain considerations which would have led me and the group to which I have the honour to belong, to vote in this House also for circulation. But, Sir, there are certain reasons which have constrained us to-day not to favour this motion for circulation. It may be that we do not, in principle, oppose the idea of circulating it, but for reasons which exist to-day we may not give it the same support which was given to it in another place. Now the reasons are two. I have nothing interesting in general to say on the Bill at this stage, but I wish to have it on record why the group to which I have the honour to belong may not vote in favour of this motion for circulation. There are reasons for this. In the first place, I understand, it is very unusual for a Bill under the ordinary parliamentary practice in England to be sent to circulation for eliciting public opinion at a corresponding stage to that which this Bill has now reached; that is to say, when a Bill has been thoroughly debated in the Lower Chamber and has reached the Upper Chamber after having been ventilated for weeks. That is one reason, Sir.

Mr. LALIT CHANDRA DAS: On a point of order, Sir. Is my friend entitled to give reasons why he will take a certain course in the matter of voting?

Mr. PRESIDENT: He is in order.

Mr. E. C. ORMOND: With regard to the interruption I would say this that I am giving reasons partly because we think it important to define our attitude which we are adopting in regard to this Bill, and secondly, I hope, that the reasons which I am adumbrating may possibly appeal to my friend opposite and when he has heard them, even he may agree with them. Now, Sir, as I was saying that is the first reason that alters our view on this motion for circulation in this House at this stage to-day. The second reason, Sir, is this that the Hon'ble Minister in charge of the Bill has spoken in somewhat conciliatory terms in regard to what may be done in the Select Committee, and we have hopes, Sir, that we may be fortunate in the forceful expression of

our views—which although they have already been expressed may possibly sink and possibly acquire even more weight by repetition, and may possibly acquire more weight by the mere passage of time—because, Sir, we say that our view is a logical one on this Bill and that the longer anyone thinks about it, the more likely it will be that he will come round to the same way of thinking that we have now arrived at. For that reason we are optimistic enough to hope that in this Select Committee it may be possible that the Bill may be modified, remodelled, to the extent that all or some of the substantial evils which we find to-day may be removed. With these remarks, Sir, I have nothing further to say except that we would like to make it again clear beyond any doubt, so that these words that have been spoken to-day in this debate, may if necessary be looked up at a critical time when it comes hereafter for the Bill to be voted upon on the question of whether it be passed or rejected, or whether it is to become a law or to be thrown out as waste paper. We wish to make it emphatically clear that, by adopting this attitude and not taking what at first sight appears to be the first opportunity to oppose this Bill by voting in favour of circulation, we are not altering our general view on the provisions of the Bill as it stands, and we reserve to ourselves the right at a later stage, if the Bill is not modified in a manner with which we may be contented to vote, heartily and completely, to vote against the Bill in toto.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I just say one word, Sir, as to the attitude proposed to be taken by Government with regard to the motion for reference of the Bill to the Select Committee——

Mr. PRESIDENT: That is not before the House just now. The question before the House is that the Bill be circulated for the purpose of eliciting opinion thereon by the 30th April, 1938. Those who are in favour of this motion, will say Aye and those who hold contrary views will say No.

Several members: Aye.

Several other members: No.

Mr. PRESIDENT: I think, the Noes have it. The Noes have it.

The next motion is about reference of the Bill to a Select Committee. The first motion stands in the name of Mr. Nur Ahamed which is for referring the Bill to the Select Committee of the whole House. The same motion is also in the name of Mr. Hamidul Huq Chowdhury and a third motion in the name of Rai Surendra Narayan Sinha Bahadur. The Rules and Standing Orders provide only for

reference to a Select Committee. In section 85 the words "select committee" obviously preclude the idea of a committee of the whole House; so I rule that these motions are out of order. Sir Bijoy, you wanted to say something about the Select Committee?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir. I just wanted to point out that if this motion for reference to a Select Committee is moved, Government will be prepared to accept it in the hope that the different groups in this House, who do not see eye to eye with regard to this Bill on every point, might be able to find out a common formula acceptable to all. In that hope, Sir, Government would accept the motion for reference of this Bill to a Select Committee.

Mr. NARESH NATH MOOKERJEE: May I inquire whether the period of reference will be a short one or a long one?

Mr. PRESIDENT: No motion for reference to a Select Committee has yet been moved. So, your question does not arise.

Rai SURENDRA NARAYAN SINHA Bahadur: I submit, Sir, that my motion is in order. So, it may be taken up.

Mr. PRESIDENT: Order, order. As there is no time to-day to take up any motion, I am afraid, I cannot give my ruling now as to whether your motion is in order.

Motion of Privilege.

Mr. HUMAYUN KABIR: Sir, I beg to move that the following matters be referred to the Privilege Committee which was appointed to go into the question, examine it, and present a report to the House. At the present stage, I shall not say anything about the merits of this question.

The first matter relates to the Leader of the House, about which you were pleased to give your ruling; the second is the question of representation of the House on the different committees and public institutions to which Government nominate members of the Legislature; and the third relates to the question of regulating the privileges of the members of the Legislature.

I beg formally to move that reference be made to the Privilege Committee of the House as regards (1) the question of the Leader of the House, (2) the representation of members of the House on the different committees to which nominations are made by Government, and (3) the regulation of privileges of members of this House.

Mr. PRESIDENT: A motion relating to the privileges of the House can be moved at any time, but it is desirable that it should be moved just after the question time and before the regular business of the House is taken up.

Motion moved: That reference be made to the Privilege Committee of the House as regards (1) the question of the Leader of the House, (2) the representation of members of the House on the different committees to which nominations are made by Government, and (3) the regulation of privileges of members of this House.

The motion was agreed to.

Mr. PRESIDENT: The Committee will report on these matters and the report will be considered by the House in a proper way.

I am to inform the House that there will be no meeting of the House to-morrow, i.e., on the 10th instant and that the next meeting of the House will be held on the 14th February, 1938, when further consideration of the Bengal Tenancy (Amendment) Bill will be taken up.

The House is adjourned till 2-15 p.m. on Monday, the 14th February, 1938.

Adjournment.

The Council then adjourned till 2-15 p.m., on Monday, the 14th day of February, 1938.

Members absent.

The following members were absent from the meeting held on the 9th February, 1938:—

(1) Ellahi, Khan Bahadur S. Fazal.

(2) Esmail, Khwaja Muhammad.

(3) Khan, Khan Bahadur M. Asaf.

(4) Laidlaw, Mr. W. B. G.

(5) Lamb, Mr. T.

(6) Poddar, Mr. H. P.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Monday, the 14th February, 1938, at 2-15 p.m., being the ninth day of the First Session, pursuant to section 62 (*2*) (*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble MR. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Detenus and Political Prisoners.

141. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) how many detenus and other political prisoners are now confined in the Presidency Jail, and whether there is any separate ward for them;

(*b*) whether it is a fact that there is no arrangement in this jail for attendants to help the detenus and other political prisoners when necessary at night and there is no arrangement either for nursing the ailing detenus and the other political prisoners suffering from acute diseases;

(*c*) whether it is a fact that no sweepers are available at night in the wards to clean the urinals and commodes when necessary, and whether there was arrangement for these previously, and if so, why the sweepers were withdrawn, whether the Hon'ble Minister contemplates to restore them;

(*d*) how many patients there are at present among the detenus and the other political prisoners in the Presidency Jail;

(*e*) whether it is a fact that a long time passes before the Medical Officer is informed or is available to the detenus and the other political prisoners in this jail, and whether it is a fact that medicines are supplied to them from outside the

gate of the ward and long time passes before medicines are given to them and whether Government have received any such complaints;

(*f*) whether it is a fact—

(*i*) that complicated cases wait for months to be attended to by specialists,

(*ii*) that specialists give trial first,

(*iii*) that X'Ray is recommended after trial,

(*iv*) that X'Ray examination is delayed, and

(*v*) that it takes long time for diagnosis and whether the Hon'ble Minister contemplates to institute inquiries on these heads by some Assembly and Council members; and

(*g*) whether there is any separate arrangement for treatment of political prisoners suffering from tuberculosis in the Presidency Jail, and whether any medical diet or any meat is supplied to these patients, and whether the Hon'ble Minister contemplates to make proper arrangements for their proper treatment in proper surroundings and by specialists?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) The number varies constantly as the majority are there for temporary purposes. There were twenty-nine on the 8th February, 1938.

(*b*) No.

(*c*) There are cage latrines and urinals in the wards and commodes are provided as necessary. These are cleaned at unlock. Sweeper convicts have not been locked up with the detenus at night and it is unnecessary and undesirable to do so.

(*d*) Two in hospital and sixteen being treated in wards.

(*e*) No. In case of necessity the Medical Officer is informed at once and one Sub-Assistant Surgeon is on duty day and night. Detenus are removed to hospital when necessary. For minor ailments medicine is supplied to them in their wards.

(*f*) The medical specialist visits the jail twice a month and the surgical specialist whenever his advice is required. Eye specialists visit the jail weekly and the dental specialist when required. When the specialist recommends X'Ray examination Government permission is obtained and the patient is sent to the Medical College Hospital. The arrangements take a few days and meanwhile the treatment recommended is carried out. Diagnosis must in some cases of chronic

disease be a lengthy process. No such enquiry, as is suggested, is necessary.

(*g*) Detenus suffering from tuberculosis are put in a separate ward and are given a liberal diet suitable to their cases.

Mr. LALIT CHANDRA DAS: Arising out of (*d*), is any of them suffering from tuberculosis?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice, Sir.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state what are the ailments they are suffering from?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice, Sir.

Assault of a Shopkeeper by a Police Officer.

142. Rai RADHICA BHUSAN ROY Bahadur: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether it is a fact that the second officer of the Kaliganj police-station in the district of Khulna assaulted one Haran Adhikari, a rich shopkeeper of the Kaliganj Bazar, at 10 p.m. on the 19th July, 1937;

(*b*) if the answer to (*a*) be in the affirmative, will he be pleased to state the reason of the assault; and

(*c*) if the Hon'ble Minister is considering the desirability of enquiring into the matter and taking necessary steps?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) As a result of a preliminary enquiry that has been held, it appears that assault on Haran Adhikari, a small shopkeeper, took place.

(*b*) Jealousy appears to have been the reason.

(*c*) Proceedings have been drawn up against the Sub-Inspector. The result is awaited.

Bus service between Radharghat and Kandi.

143. Khan Bahadur ATAUR RAHMAN: (*a*) Is the Hon'ble Minister in charge of the Home Department aware that there is a motor bus service between Radharghat and Kandi in the district of Murshidabad carrying court passengers of Berhampore and train passengers of Khagraghat station?

(*b*) Is the Hon'ble Minister aware that no bus attends the trains which reach Khagraghat during the night and the Kandi passengers feel great inconveniences that they are to pass the whole night squatting in the station?

(*c*) Is the Hon'ble Minister considering the desirability of taking steps to remove this inconvenience of the public?

The Honble Khwaja Sir NAZIMUDDIN: (*a*) and (*b*) Yes.

(*c*) I shall consider if any improvement is possible.

Silting of river Bidyadhari.

144. Mr. HUMAYUN KABIR: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state whether it is a fact that the technical experts of the Government were aware that contingencies would arise due to silting of the river Bidyadhari?

(*b*) If the answer to (*a*) be in the affirmative, will the Hon'ble Minister be pleased to place before the House the scheme or schemes prepared by the Communications and Works Department to drain the area?

(*c*) Have any of these schemes been given effect to?

(*d*) If not, why not?

(*e*) Is it a fact that no relief can be given till the stormwater channel from Bantola to Kulti as provided in the Corporation Scheme, known as Dr. B. N. Dey's Kulti Outfall Scheme, is completed?

(*f*) Is it a fact that Government in their letter No. 4005 I., dated the 17th July, 1928, stated:—"The Governor in Council regrets that this Government is not in a position to comply with the request made by the Corporation and has no intention to maintain the river Bidyadhari"?

(*g*) Is it a fact that the Secretary, Government of Bengal, Communications and Works Department, in D.-O. letter No. 8646 of 1928 stated:—

"Government are advised that it is practically impossible to maintain the Bidyadhari"?

(*h*) Will the Hon'ble Minister be pleased to state what made the Government alter the policy regarding the maintenance of the river Bidyadhari after 1931?

(*i*) Is it a fact that an officer of the Communications and Works Department was put on special duty to look into the proposal of reviving the river Bidyadhari?

(*j*) Will the Hon'ble Minister be pleased to state the findings of the said officer?

(*k*) Will the Hon'ble Minister be pleased to state the policy of the Government regarding the rivers Bidyadhari and Peali?

(*l*) Is it not a fact that the flooding of areas adjacent to Calcutta could have been averted had the stormwater channel as in Dr. B. N. Dey's Kulti Outfall Scheme been excavated?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Kasimbazar): (*a*)Due to the decay of the Bidyadhari river it was to be anticipated that those areas which depend on it for drainage would become flooded until other arrangements were made.

(*b*) to (*d*) Drainage has been effected by the Tolly's Nullah as far as possible. No new scheme has been prepared.

(*e*), (*f*), (*g*), (*i*) and (*l*) Yes.

(*h*) Government have not altered their policy after 1931.

(*j*) His report showed that the proposal to revive the Bidyadhari river was impracticable.

(*k*) It is not possible to revive the Bidyadhari river. The question of improvement of the Peali river is under consideration. Such improvement is only possible with the co-operation of the *zemindars* by throwing open areas contiguous to the river for free spilling.

Mr. HUMAYUN KABIR: Arising out of answer (*a*), will the Hon'ble Minister be pleased to state if there has been no alteration in the policy of the Government since 1931, why was the outfall scheme of Dr. De held up till 1935?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar: Sir, as far as I am aware it was not held up. The Department concerned took some time in examining the scheme and coming to a decision.

Mr. HUMAYUN KABIR: Is it not a fact that the scheme was held up because the Government wanted to examine whether the Bidyadhari could be revived or not?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar: I am not aware of it.

Mr. HUMAYUN KABIR: May I refer the Hon'ble Minister to the answer of the Hon'ble Minister for Public Health given to this House a few days ago?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar: Yes Sir, I have a copy of the answer with me. He also said that the delay was due to Department concerned examining the scheme.

Loan offices in Bengal.

145. Rai Sahib JATINDRA MOHAN SEN: (*a*) Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state—

(*i*) the number of loan offices in Bengal;

(*ii*) the number of loan offices which have taken protection under section 153 of the Indian Companies Act; and

(*iii*) the amount of money which is involved by reason of the application of the said section?

(*b*) Is the Hon'ble Minister aware that all this money represents the lifelong savings of middle class Hindu and Moslem *bhadralogs* who will be practically ruined if these loan offices are not reconstituted and put into running order?

(*c*) Does the Hon'ble Minister contemplate to form a Committee of experts with some members of both the Chambers to examine the conditions of these loan offices and to devise ways and means for reviving them?

MINISTER in charge of the COMMERCE and LABOUR DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): (*a*) (*i*)—

Banking companies doing exclusively loan business	... 509
Loan offices	... 564
Total	... 1,073

of these, 37 banking companies and 20 loan offices are in liquidation.

(*ii*) Since the introduction of the Indian Companies (Amendment) Act, 1936, on the 15th January, 1937, six loan offices have taken protection under section 153 of the Indian Companies Act, 1913. Figures prior to that date are not available as under the original Act no copy of the Court's Order was required to be filed with the Registrar of Joint Stock Companies, Bengal.

(*iii*) It is not clear what exactly the hon'ble member means by the term "money involved." The balance sheets filed with the Registrar of Joint Stock Companies by these six companies show that—

		Rs.
Money due to depositors	...	8,75,155
Total assets	...	12,65,884

including Rs. 8,67,583 realizable from the debtors.

(*b*) I have no definite information on the point.

(*c*) The matter is under consideration.

Rai Sahib JATINDRA MOHAN SEN: Arising out of (*a*) (*ii*), was it not possible to get the information by enquiries from the District Officers of each of the Districts of Bengal?

The Hon'ble Mr. H. S. SUHRAWARDY: I think, Sir, the labour involved would have been considerable. I do not know whether the District Officers would have been able to supply the necessary information, as these would necessarily be applications to some judicial courts.

Rai Sahib JATINDRA MOHAN SEN: The information could have been obtained by enquiries from the District Officers of each District of Bengal by asking them the number of loan offices in each District and the number of loan offices which have taken protection under section 153, , prior to the passing of the Indian Compaines (Amendment) Act of 1936.

The Hon'ble Mr. H. S. SUHRAWARDY: I suppose it might have been possible, but prior to the 15th January, 1937, it might be several thousand years. If the hon'ble member would give the period between which he wants the information, I shall try and collect the information for him.

Mr. HUMAYUN KABIR: Sir, are we to understand that the Indian Companies Act came into force thousand years ago?

(No reply).

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state with regard to the reply to sub-clause (*c*), what step, if any, has been taken in consideration of this matter?

The Hon'ble Mr. H. S. SUHRAWARDY: I am afraid, Sir, that the matter is under consideration, and it is not open to me at the present moment to say what steps have been taken until Government finally inform the House as to its decision.

Rai Sahib JATINDRA MOHAN SEN: Will the Hon'ble Minister be pleased to state whether the Government is taking statistics as a step towards considering the matter?

The Hon'ble Mr. H. S. SUHRAWARDY: Certain statistics have been obtained.

Rai Sahib JATINDRA MOHAN SEN: In that case would it not have been possible to supply the information as to the number of loan offices which have taken protection under section 153, since the passing of the Act which has been amended by the act of 1936?

The Hon'ble Mr. H. S. SUHRAWARDY: If the hon'ble member desires that information, I shall let him have it. I have already stated I shall try and collect it for him.

Accident due to Electrocution.

146. Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur (on behalf of Rai Satis Chandra Mukherji Bahadur): Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state—

(*a*) how many cases of the accident due to electrocution have been reported within the last six months in the municipality of Hooghly-Chinsura, district of Hooghly;

(*b*) whether any compensation has been paid by the licensees to the victims or to their relatives;

(*c*) whether any enquiry has been made by any Government official as to the causes of the accidents;

(*d*) whether the installation of the licensees of the street lighting lines has been examined by any Government officer recently;

(*e*) if so, when;

(*f*) whether the Hon'ble Minister appreciates that the installation put up by the licensees in certain places are dangerous and are laid without sufficient safeguards; and

(*g*) if so, what steps the Government propose to take to remedy the state of things?

The Hon'ble Mr. H. S. SUHRAWARDY: (*a*) Two.

(*b*) I have no information.

(*c*) and (*d*) Yes.

(*e*) October and November, 1937.

(*f*) The Electric Inspector's report shows that the installation was not free from defects.

(*g*) The licensees have been apprised of the defects in their installation so that they may rectify them.

Advertisement by Government Educational Institutions.

147. Rai BROJENDRA MOHAN MAITRA Bahadur (on behalf of Rai Surendra Narayan Sinha Bahadur): (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether Government educational institutions are free to advertise for their needs in any newspaper they may think fit without any reference to the Publicity Department?

(*b*) If not, what officer of the Government decides which newspapers are suitable for their purpose?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Minister in charge of the Education Department): The hon'ble member is referred to the answers given to his question No. 15 for the current session.

Female Education.

148. Khan Bahadur MUHAMMAD ASAF KHAN: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether there are special orders of the Government for encouragement of the female education, particularly in primary section?

(*b*) If so, will the Hon'ble Minister please state the orders mentioned specifically and the number of girls' *muktabs* with the amount spent for the purpose in Rangpur district during the years 1934-35, 1935-36 and 1936-37?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Minister in charge of the Education Department): (*a*) Yes.

(*b*) A statement is laid on the Library table.

There was no girls' *muktab* in the district of Rangpur during the years in question; so nothing was spent for the purpose.

System of Nomination to Local Bodies.

149. Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state whether Government intend to abolish the system of nomination of members to local bodies?

MINISTER in charge of the PUBLIC HEALTH and LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Syed Naushor Ali): The consideration of the matter has already been taken up.

Mr. RANAJIT PAL CHOUDHURY: Has any conclusion been arrived at?

The Hon'ble Mr. SYED NAUSHER ALI: No.

Mr. RANAJIT PAL CHOUDHURY: Can it be expected within six months?

The Hon'ble Mr. SYED NAUSHER ALI: I am sorry, I cannot give any time limit.

Relief to the flood-stricken people of Chittagong.

150. Mr. NUR AHAMED: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state if he intends to grant any relief to the peasants and tenure-holders who have suffered by the flood as stated in the reply to my question No. 86 of the September Session, by way of remission of arrear of rent to *khas mahal* tenants and stoppage of execution of certificate for realisation of arrears of rent? If not, why not?

(*b*) Will the Hon'ble Minister be pleased to state whether he has made any enquiry into the matter up to this time in order to ascertain the suffering of the flood-stricken people and whether he has granted any relief to them?

(*c*) If not, does the Hon'ble Minister propose to make any immediate enquiry into this matter with a view to granting immediate relief to the poor *khas mahal* tenants?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) Remissions of rent are being allowed after an enquiry by *khas tahsildars*. In Cox's Bazar subdivision alone remissions to the extent of Rs. 11,121 have been granted to date.

No certificate is being issued in this area against persons actually affected and who are unable to pay.

(*b*) Yes. Agricultural loans to the extent of Rs. 43,390 have been distributed to the flood-stricken people.

(*c*) Does not arise.

Council Library.

Mr. SHRISH CAHNDRA CHAKRAVERTI: May I have your leave to move that the question of the Council Library and the appointment of the Librarian and the staff to the same be referred to the Privileges Committee of this House to report within a week? Sir, I understand, that the members of this House are being put to great inconvenience, as practically the Library has gone under the control of the Assembly; and so some provision should be made so that the members of this House may have the same facilities in the use of the Library.

Mr. PRESIDENT: This is a motion arising out of the privilege of the House. Motion moved:—

> That the question of the Council Library and the appointment of a Librarian and the staff for it be referred to the Privileges Committee of the House to report within a week.

The Hon'ble Khwaja Sir NAZIMUDDIN: On a point of order, Sir. Is this a regular motion?

Mr. PRESIDENT: Question of privileges can be taken up at any time and the usual time for it is, after Questions and before the regular business of House commences. An urgent motion of this kind directly concerning the privilege of the House always takes precedence over all other motions or orders of the day.

The Hon'ble Khwaja Sir NAZIMUDDIN: Is it not subject to the approval of the President and the Minister concerned?

Mr. PRESIDENT: No consent of the Minister concerned is necessary. Such a motion can be brought before the House without giving any previous notice to the President when the matter affecting the privilege is of a very urgent nature.

Mr. HAMIDUL HUQ CHOWDHURY: The question of the appointment of a Librarian is important but may not this question be taken up in the Committee of Appointment and Control of the Library, so that it will be very convenient for the question to be deferred.

Mr. PRESIDENT: The question before the House is that this motion be referred to the Committee on Privileges.

Mr. HAMIDUL HUQ CHOWDHURY: Then, Sir, the last one, that is, the submission of the report within a week, may be deleted and subject to that the motion may be referred to the Committee on Privileges.

Mr. NARENDRA CHANDRA DATTA: I do not see any force in the opposition. Really the Deputy President, who is the Chairman of the Rules Committee, desires that the matter be deferred. As regards the deletion of the last portion, I think, if this is done by the Privileges Committee, it would be helpful to the Rules Committee. So my submission is that it should be accepted by the Privileges Committee, so that the Rules Committee may have the benefits of their decision and arguments and suggestions. Besides he is the Chairman of the Privileges Committee as well. So I do not see any objection whatsoever. I submit that since it is a matter in which the whole House is interested, it should be passed without any objection.

Mr. HAMIDUL HUQ CHOWDHURY: In that case, as regards the question of making a report within a week, whatever be the report, I think, I will withdraw my objection.

Mr. PRESIDENT: The motion before the House is that the question of the Council Library and the appointment of a Librarian and the staff be referred to the Privileges Committee of the House to report within a week.

As many as are of that opinion say "Aye"; those who are of contrary opinion say "No".

I think, the Ayes have it. The Ayes have it.

GOVERNMENT BILL.

The Bengal Tenancy (Amendment) Bill, 1937.

Mr. PRESIDENT: The House will now take up the amendments to the Bengal Tenancy (Amendment) Bill, 1937.

Mr. NAZIRUDDIN AHMAD: May I have your permission to move the short-notice amendment?

Mr. PRESIDENT: Let me first examine the position. Item No. 5 in the list of amendments stands in the name of Maharaja Sir Manmatha Nath Ray Chowdhury of Santosh and the time proposed in his amendment for the submission of the report of the Select Committee is 7th of June, 1938. I therefore hold that his amendment should get precedence of being moved. If, however, the general desire of the House is that Mr. Naziruddin Ahmad's short-notice amendment should be taken up first, the Chair will have no objection. May I take that to be the general desire of the House?

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: No, Sir.

Mr. PRESIDENT: If there be no concensus of opinion to give precedence to Mr. Naziruddin's amendment, then I shall take them in order of the dates proposed in the amendments.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Then may I put my motion?

Mr. PRESIDENT: Yes.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Mr. President, Sir, I beg to move the motion which stands in my name. It reads thus:—

That the Bill be referred to a Select Committee consisting of the following persons:—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister in charge of the Revenue Department,

(2) Mr. D. H. Wilmer,

(3) Mr. E. C. Ormond,

(4) Mr. Kanai Lal Goswami,

(5) Rai Brojendra Mohan Maitra Bahadur,

(6) Mr. Kamini Kumar Dutta,

(7) Mr. Sachindra Narayan Sanyal,

(8) Rai Radhica Bhusan Roy Bahadur,

(9) Mr. Rezzaqul Haider Chowdhury,

(10) Khan Bahadur Ataur Rahman,

(11) Mr. Humayun Reza Chowdhury.

(12) Khan Sahib Abdul Hamid Chowdhury,

(13) Khan Bahadur M. Abdul Karim,

(14) Nawabzada Kamruddin Haider,

(15) Mr. Mesbahuddin Ahmed,

(16) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,

(17) Rai Manmatha Nath Bose Bahadur,

(18) Rai Keshab Chandra Banerjee Bahadur,

(19) Rai Satis Chandra Mukherji Bahadur,

(20) Mr. Nagendra Narayan Ray, and

(21) the mover,

with instructions to submit its report on the 7th June, 1938, and that the number of members whose presence shall be necessary to constitute a quorum, shall be five.

Sir, when one gets beyond his depth and is on the point of being drowned, it will not be surprising if he will catch a straw with all the might that is still left in him to keep his head above water. I am, practically, in the same predicament. I feel sure, Sir, that every member of this House, with the death-dealing proceedings of the other House before him with respect to the Bill which is now before us, will agree with me that the analogy holds good. The instinct of self-preservation, therefore, prompts me to take shelter behind a Select Committee, which I am afraid will prove no better than a straw in the midst of the battering waves which the whirlwind of the party, enjoying, statutory majority, has raised with unprecedented violence. I am compelled to do this although, on principle, I am opposed to the Bill, and it is my honest conviction that at least some of its iniquitous provisions, if given effect to, will infringe upon the fundamental rights of landholders and break the vital tenets and terms of agreements and covenants which were made binding by irrevocable contract on the State and any other party or parties with respect to properties in which hereditary and vested interests are involved.

Sir, I confess that I have a soft corner for my friend Mr. Humayun Kabir who has always impressed me as the free lance of this House. On many an occasion I have admired his skill and dexterity—above all his boldness, or will it be more correct to say, his bluntness with which he brandished his naked sword in this Chamber. But I must say, though reluctantly, that his observations on Wednesday last with reference to what I said on that day about the sanctity of contracts and moral obligations of a State, community or an individual, fell short of my expectation. His dictum was that there was nothing right or wrong in the sphere of politics, but I am afraid there is absolutely no chance of such a creed being accepted by those, who, like me, have never divorced politics from morality, or have fostered an undying faith in the inter-dependence of our country's prosperity upon the homogeneous growth and simultaneous development of all classes and communities which live in it. To rob Peter to pay Paul is a creed of

despair and is sure to land us on the bed-rock of ruin and disaster. My friend has made an attempt to frighten me by saying that if I would plead for immutability of legislative decrees, what would happen to the caste Hindus if they were ostracized from the Cabinet by the present Coalition Party for eternity? I hope that wish is not the father to the thought in this particular case, and my answer to my friend is that I would always draw a line of demarcation between fundamental rights and statutory rights—between cardinal principles and expedient doctrines and between hereditary or vested interests and temporary and subsidiary claims. As regards his threat, my straight answer is that no caste Hindu will care to be in a Cabinet which may be created by a despicable legislature of his description and perhaps no caste Muslim ——(Cries of "No, no" from Muslim members). I think there are castes although not openly recognised even amongst Muslims, but you may not admit it.

Mr. HAMIDUL HUQ CHOWDHURY: There are no castes amongst Muhammadans.

The Maharaja Sir MANMATHA NATH ROY CHOWDHURY, of Santosh: All right, I stand corrected. Let me then say that no Muslim will either care to do so. Hindus and Muslims of the right sort will, I dare say, choose to leave such a Cabinet to perish in dreadful isolation. At any rate, I am free as ever from the talon of communalism. However, that may be, the spear-head of my friend's arguments was that the zemindar had no proprietary right in the land and had no more right in it than the tenant. My friend knows that there was not much love between the zemindars and Sir John Shore, but in 1798 he had to make the following observations:—

> "The security of the Government with respect to its revenue will be best established by concluding a Permanent Settlement with the zemindars or proprietors of the soil; the land, their property, is the security to the Government."

In 1790, Lord Cornwallis made the following observations:—

> "To those who have adopted the idea that the zemindars have no property in the soil and the Government is the actual landlord and the zemindars are the officers of the Government, removable at pleasure, the question regarding the rights of the zemindars to collect the internal duties on commerce would appear unnecessary. These are not the grounds on which I have recommended the withdrawal from the zemindars of the collection of internal duties. I admit the proprietary rights of the zemindars.

To carry conviction with my friend and with others of his mind, I may be permitted by you, Sir, to quote a few lines from Sir John Shore's Minute of 1789, as they must prove interesting to my critics. Sir John Shore observed:—

> "If we admit the property of the soil to be vested in the zemindars, we must exclude any acknowledgement of such right in favour of the *raiyats*, except when they may acquire it from the proprietor".

I crave your indulgence, Sir, to also quote a few lines from the Tagore Law Lectures of 1874-75, delivered after nearly a century of the establishment of the Permanent Settlement, with reference to the proprietary right in the land:—

> "The zemindars possess a proprietary right in the land which justified the Permanent Settlement with them as the nearest approach to an English holder in fee-simple, and as the most likely class to develop into the English landlord".

Sir, significant words are these and I would most humbly request my friend Mr. Humayun Kabir and those who are of his thinking to be generous enough to ponder over them. I hope they will do so because my Muslim friends in this House, I must freely admit, have given me a most patient hearing for which I am ever so much grateful to them. My friends know very well, and perhaps the present Ministry in Bengal also know, that the real interests of the tenants are as near to my heart as anything else. If it is not presumption on my part, I may be permitted to present to this House a credential which I got unasked and unsought from the Hon'ble Chief Minister, when he was the Mayor of the Corporation of Calcutta. In unveiling, on behalf of the Corporation, a portrait of my humbleself in the Town Hall in March, 1936, the Hon'ble Mr. Fuzlul Huq observed:—

> "I can say from my personal knowledge that his relations with his tenants can truly be said of that ideal character which characterise one's relations who has real interests of tenants at heart".

I hope my Muslim friends will, therefore, believe me when I say that I have to oppose the iniquitious provisions of this Bill because these will not make the tenants happy and prosperous but will ruin the zemindars. I want them to believe that I am merely sounding a note of warning against "agrarian socialism"—that I am only asking the State and the patriot to recognise the cardinal truth that the progress and prosperity of the landholders and the *raiyats* are relative and inter-dependant—that I am only pointing out the great danger of giving unrestricted freedom to the *raiyat* to transfer his lands as

he likes—a liberty which I honsetly believe will be misused and make him a landless serf very soon—a liberty which will be instrumental in passing agricultural lands from the hands of the tillers of the soil to the money-lenders and opulent non-agriculturists—that I am only raising my voice against the iniquity and immorality of ruthlessly destroying fundamental rights and vested interests—that I am only trying to preserve the sanctity of contracts and to prevent a legislation which is bound to be a negation of justice and civilisation.

The Hon'ble Revenue Minister on Wednesday last asked us to read the signs of the time but may I, in my turn, also ask him to have a broader outlook of justice and not allow his opportunism to make him unreasonable or under-estimate the opposing forces. I yet pray that he may not allow himself to be drifted away from the right course by the whirl-wind of party politics. If he wishes to read the signs of the time, I may tell him once again that he must set his helm on the point of compass and come forward with a Bill which will place the land system of this Province on a co-operative basis within the scope of the Permanent Settlement for the benefit of all within the sphere of its activities. A federation of estates, within the constitutional frame-work of which each estate will be an autonomous unit but be governed by certain common laws and principles with the object of inaugurating a common agricultural and industrial policy on modern and scientific lines is what is needed at this psychological moment. To augment the resources of the zemindars, the tenants and the educated middle-classes within the limits of the federation and bring new revenue to the coffers of the State by levy on improvements effected, or on increased incomes of parties concerned and thereby increase the potentiality of the State for nation-building and rural uplifting works, is designed to make the country healthy and prosperous. I do not believe in hoodwinking the tenants by legislation of the kind now under review, which will soon make the tillers of the soil landless. I want a legislation which among other things will make the redistribution of lands to the tillers of the soil possible, so that none of them may remain too poor to pay for various developments to reap the advantages, which will accrue from the new system.

Sir, the other night the Leader of the Congress group in this House thought fit to characterise me as a die-hard. I am not sorry for that because I took it as a compliment. But I am sorry because he characterised despisingly the great community to which I have the honour to belong, as a "microscopic minority". I am sorry he is not present. I wish he had been here to hear what I have got to say in reply. Perhaps it will be a rude shock to my friend if I say that he has borrowed this phrase from Lord Dufferin who contemptuously characterised the Congress as a "microscopic minority". Let not my friend forget the lessons of history—what is a microscopic minority to-day may have in it great potentiality for the general good and

the well-being of a country. I am glad that my friend did not think it proper to call me a chameleon, perhaps, the word is not tasteful to him.

Sir, I shall resume my seat by saying that I want this Bill to go to a Select Commitee in the hope that the landlord's transfer fee—his right of pre-emption—his legitimate right to speedily realise his rent will be recognised by the Select Committee as rights in land and it will admit that such right have inherent and intimate correspondence with the right of ownership. There may be reduction of landlord's fee, some new restrictions may be imposed on the right of pre-emption if necessary to afford relief to the tenants but as rights they must not be interfered with. I hope that they will so chasten the present Bill as will leave no scope for designing people to create bad blood between the proprietors and the tillers of the soil.

I give expression to this hope because I feel in the heart of my heart that the tenants' cause is the landlord's cause, they must swim or sink together.

Sir, before I resume my seat I must ask the Hon'ble Revenue Minister to explain what he actually meant when he said on Wednesday last that the Permanent Settlement might have been a good measure in the past. Did he mean that it is not so to-day? Am I to understand that the policy of the Government has been altered with respect to the Permanent Settlement? If there has been a change of policy, the Hon'ble Revenue Minister should speak out and enunciate the new policy very clearly.

Mr. NAZIRUDDIN AHMAD: I beg to move that the Bill be referred to a Select Committee consisting of the following members with instructions to submit their report by the 22nd February 1938:—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister in charge of the Revenue Department,

(2) Dr. Radha Kumud Mookerji,

(3) Mr. Bankim Chandra Datta,

(4) Mr. Shrish Chandra Chakraverti,

(5) Mr. Lalit Chandra Das,

(6) Maharaja Sir Manmatha Nath Ray Chowdhury, of Santosh,

(7) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,

(8) Rai Manmatha Nath Bose Bahadur,

(9) Rai Satis Chandra Mukherji Bahadur,

(10) Mr. D. H. Wilmer,

(11) Mr. E. C. Ormond,

(12) Mr. Nagendra Narayan Ray,

(13) Mr. Humayun Kabir,
(14) Khan Bahadur Saiyed Muazzamuddin Hosain,
(15) Khan Bahadur M. Abdul Karim,
(16) Mr. Naziruddin Ahmad,
(17) Mr. Hamidul Huq Chowdhury,
(18) Mr. Rezzaqul Haider Chowdhury,
(19) Mr. Kader Baksh,
(20) Mr. Mukhlesur Rahman,
(21) Khan Bahadur Ataur Rahman,
(22) Maulana Muhammad Akram Khan,
(23) Rai Radhica Bhusan Roy Bahadur,
(24) Khan Sahib Abdul Hamid Chowdhury,
(25) Mr. Mesbahuddin Ahmed,
(26) Khan Bahadur Maulvi Muhammad Ibrahim,
(27) Rai Brojendra Mohan Maitra Bahadur,
(28) Rai Sahib Jatindra Mohan Sen,

and that the number of members whose presence shall be required to form a quorum shall be eight.

With regard to this motion I would make a slight consequential amendment if you permit it.

Mr. PRESIDENT: Is it about the date by which the report should be submitted?

Mr. NAZIRUDDIN AHMAD: Yes. As several holidays intervened since notice of this motion was given, I wish to extend the time by six days. The date will be 28th February.

Mr. HUMAYUN KABIR: This is not a consequential amendment.

Mr. NAZIRUDDIN AHMAD: It is not a "consequential amendment" in the technical sense, but it has been rendered necessary—being consequential on the intervention of the holidays.

Mr. PRESIDENT: I have no objection to the changing of the date.

Mr. NAZIRUDDIN AHMAD: I am obliged to you, Sir. I, therefore, propose that the Committee must report by the 28th instant instead of by the 22nd. With regard to the motion I submit that there is great advantage in sending a Bill of this nature to a Select

Committee. First of all, the provisions of the Act and the Bill are extremely intricate and the amendments are various and complicated. A complete classified list of amendments is not yet available to us; only the first part has been printed and circulated. Next, in a Select Committee there is considerable scope for give and take and the interest of sound draftsmanship is better looked after and better secured in the informal and friendly discussions in a Select Committee than in the House itself. In the House there is an inevitable fight between different political groups and each party tries to carry its own motion and defeat that of its opponents. In the meantime, in the heat and turmoil of acrimonious debate, the interests of sound draftsmanship is altogether lost sight of. The technical and strict rules of debate in the House do not offer much scope for improvements suggested or arising, on the floor of the House, out of the debate. Experience shows that there is greater friendliness and co-operation among the members in a Select Committee than in the House.

With regard to the size of the Committee, I submit that I originally submitted a motion for a Select Committee of the whole House. You have ruled and I submit rightly ruled that a Select Committee of the whole House is not admissible under the appropriate rule. The next best thing that could be done under the circumstances was to set up a fairly large and representative Select Committee which I have attempted to do by this motion. You will be pleased to note that the idea of a large Select Committee like this was taken advantage of by the Parliament in passing the Government of India Act, 1935. The Government Bill, carefully drafted on the basis of the Report of the Joint Select Committee on Indian Constitutional Reform, was presented before the House of Commons. There on a successful motion, the whole House of Commons sat as a Committee and discussed its provisions for full thirty days and, as a result, in the House itself they took only four days to dispose of the various amendments of considerable importance. The amended Bill was thereafter placed before the House of Lords. There again the amended Bill was referred to a Committee of the whole House. This Committee of the House of Lords considered the Bill for full four days. According to Professor Keith, a "vital change" and several minor changes were made therein. As a result of this, the work in the House was remarkably shortened, and the amendments were disposed of in the House of Lords in the course of a single day. I submit that a full consideration of the Bill by a representative Select Committee like this will ensure perfection in draftsmanship and will mean real and substantial economy of time. I further venture to submit that, granted a willingness to work, amongst various groups, and co-operation of the different sections of the House, work will be shortened and things will be simplified to a great extent.

With regard to the principles of the Bill much has been said by the Maharaja of Santosh and by way of reply I should say that his idea that the Permanent Settlement has made the landlords absolute proprietors of the soil is not right. I submit that more recent, authoritative and powerful opinion is directly contrary to that theory.

Mr. PRSIEDENT: You have already quoted that opinion in your last speech.

Mr. NAZIRUDDIN AHMAD: I merely referred to them but I won't quote them to-day. I shall quote different, but at least equally weighty and more direct, authority to-day. The Maharaja has quoted an extract from the Tagore Law Lecture of 1874-75. I wish to quote from another Tagore Law Lecture, namely, Land Law of Bengal, 1895, by the late Mr. Justice Sarada Charan Mitra, who was obviously far better acquainted with the ancient law and history of tenancy right than the previous author. In his standard work, Mr. Sarada Charan Mitra says: "the right of the subject to the ownership of the land was universally recognised by ancient Hindu Kings." Later on he says: "Hindu sages said and said repeatedly that the sovereign was not the proprietor of the soil. He was entitled to a share of the usufruct of the land in the occupation of his subjects, not because he was the owner, but because a share was payable to him as the price for the protection afforded to life, liberty and property. The records of Hindu thought from the earliest times point to this conclusion."

He says again: "The old Hindu system recognised the right of the cultivators to hold on and enjoy the usufruct and even to alienate and sublet. It was to all intents and purposes, a proprietary right, subject to the payment of a definite share of the produce."

And in another place: "The existence of private property in land is the fundamental doctrine of Hindu jurisprudence which even the Mahomedan Government in India did not put out of sight."

These are the considered opinions of an acknowledged authority on the subject and he bases his opinion on a careful and deep study of the original Sanskrit authorities.

In the face of these and other weighty opinions, I submit, the House will not lightly accept the doctrine that the zemindars are the owners of full proprietary right of the soil even under the Permanent Settlement Regulation, I of 1793. I submitted the other day what the High Court held in the year 1865, that the right of the proprietorship of the landlord under the Permanent Settlement was subject to the existing right of the various classes of people inhabiting the land.

I think I have to ask your kind permission once again to make one more slight change in the personnel of the Committee arising out of

the subsequent inability of one of the non-members to serve on the Committee.

Mr. PRESIDENT: You cannot make more than one alteration. It must be done by somebody else.

Mr. NAZIRUDDIN AHMAD: I have then nothing further to add. The responsibility of this House in this matter is great and I commend the motion to the careful consideration of the House.

Mr. PRESIDENT: Before I call upon the next mover of the amendment, Raja Bhupendra Narayan Sinha Bahadur of Nashipur, I would like to tell the House that if there is general agreement among the members about referring the Bill to a Select Committee, all other smilar amendments need not be moved. The purpose of a Select Committee motion is to make a serious attempt to come to an amicable settlement as far as possible between the divergent views that may exist among the different parties and groups. The principle on the basis of which a Select Committee is constituted, is to represent the House in miniature according to the proportional strength of each of the parties and groups in the House as far as practicable. Therefore it should be the duty of the mover to request the respective party whips to select the names from amongst their members for the Select Committee, so that there may not be any disagreement about the personnel of the Committee on the floor of the House. In spite of this arrangement, if any amendments for addition or substitution of names are moved, generally such motions are voted down by the House.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, I oppose the motion for referring this Bill to a Select Committee.

Mr. HAMIDUL HUQ CHOWDHURY: May I enquire, Sir, if Mr. Naziruddin Ahmad has got the consent of all the members whose names he has included to form his Select Committee?

Mr. PRESIDENT: I assume Mr. Naziruddin Ahmad has done so.

Mr. NAZIRUDDIN AHMAD: I submit, Sir, that I have obtained the consent of all, except that of Mr. Ormond.

Mr. NARESH NATH MOOKERJEE: I submit, Sir, that Mr. Naziruddin Ahmad has not consulted us with regard to our names, and I am afraid that the proper proportion has not been allotted to this party.

Mr. KADER BAKSH: Mr. President——

Mr. PRESIDENT: Order, order, Mr. Naziruddin, did you consult the Congress Party, when you put down the names?

Mr. NAZIRUDDIN AHMAD: Yes, Sir, I consulted the leader of that party and the leader, in consultation with his party, gave me a list of names in his own handwriting.

Mr. NARESH NATH MOOKERJEE: I submit, Sir, that out of twenty-eight names only five do not reflect the proper strength of this party. We are entitled to at least 20 per cent. of the personnel.

Mr. PRESIDENT: I understand, Mr. Mookerjee is the whip of his party and it is strange that he does not know who are going to represent his party in the Select Committee. However, whatever may have been done in the past, the Chair hopes that in future the mover of a Select Committee motion will consult the party whips and give them representation according to the strength of their respective parties in the House.

Do you like to move your amendment, Raja Bahadur?

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: My amendment is practically the same as that of the Maharaja of Santosh, so I do not move my motion.

Rai Sahib JATINDRA MOHAN SEN: I, too, do not move my motion, Sir.

Rai SURENDRA NARAYAN SINHA Bahadur: In view of the fact that the names included in my motion are almost agreed to by the other parties, I do not like to move my amendment.

Rai BROJENDRA MOHAN MAITRA Bahadur: I do not like to move my amendment, Sir.

Mr. PRESIDENT: Does the Maharaja of Santosh want to move his amendment to the motion of Mr. Naziruddin Ahmad?

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Yes, please. Sir, I beg to move that in the motion of Mr. Naziruddin Ahmad, for referring the Bill to a Select Committee, for the words "by the 28th February 1938" the words "as soon as possible" be substituted. Sir, I am moving this amendment without prejudice to the motion which I have already moved with instructions to the Select Committee to report on the 7th June next. In the event of that motion being thrown out, I should like to stick to the amendment which I am now moving. Sir, I cannot make up my

mind to see eye to eye with my friend, the mover of the motion now under review. I honestly think that such a complicated and important task cannot be properly accomplished by the members of the Select Committee, unless they were super-men, within so short a time. We must have a much longer time; we must have time to discuss the provisions of the Bill threadbare and then come to a conclusion. If necessary, we shall have to make intensive investigations and consult experts. We shall have to take the opinions of the Commissioners, District Magistrates and real representatives of the tenants and land-holders. If we want to give a proper shape to this Bill, we must not be rushed, we must not adopt hurricane methods, we must proceed very cautiously and see that we make no mistake; our recommendations should be so carefully formulated that they may carry conviction in the House when the Bill emerges out of the Select Committee. No Select Committee was formed in the Lower House, and if it is merely the intention of my friend Mr. Naziruddin Ahmad or of those on whose behalf he might be acting to fill up that gap or to whitewash the black spot in the proceedings of the Assembly or to wash out the sin of omission which vitiated those proceedings by a Select Committee in the Upper House, I am afraid the move is at best a mere eye-wash. His appeal for co-operation was very significant and I have every mind to co-operate with him and the Hon'ble Revenue Minister provided the Select Committee is given ample apportunity to do justice to the duty that is going to be assigned to it.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Do I understand that in that case——

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Is the Hon'ble Minister rising on a point of order, Sir. If not, I am not going to yield to him.

Mr. PRESIDENT: Order, order. The rule is that the member speaking cannot be interrupted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I know the rule all right, Sir. I thought, however, that as a matter of courtesy, I might have been allowed to have my say.

Maharaja Sir MANMATHA NATH ROY CHOWDHURY, of Santosh: In that case you ought to have made an appeal to me.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not want to appeal to any one, Sir.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Then, please take your seat as I am not going to give away I am naturally very jealous of my rights.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: So am I.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I want the Select Committee to go into the matter very seriously because great changes are being introduced by the Hon'ble Revenue Minister whether on his own initiative or on the initiative of his party, I do not propose to examine at present. But great and radical changes have been introduced and if the Select Committee is expected to do any good work, they must be given time. It is not possible for them to finish this Bill within a week or a fortnight or even within a month. To meet my friend half-way, I have made a very elastic suggestion, namely, that the Select Committee should report "as soon as possible". It is no novel proposition. I may cite precedents in support of my proposal. I can show that in the past many Select Committees were asked to report on Government Bills, either introduced by the Hon'ble Revenue Minister or any other Member or Minister, "as soon as possible". It may, therefore, be said to be a recognised practice of this House and I appeal to my friend over there to accept my suggestion and make his motion elastic enough to give the Committee a fair chance to do their work.

I think no good work can be done when you circumscribe the activities of a committee within much too rigid limits. If they are to do their work well and to their entire satisfaction, they must be given adequate time to examine the facts of the case they are called upon to deal with. In the present case, you must give them a real opportunity to evolve out of their collective wisdom and experience a measure which may not be identical with the Bill in respect of all its details but at the same time may serve the purpose for which it is being ushered into this House, viz., to afford relief to the tenants and at the same time afford relief to the landlords, to right all wrongs and to rectify all defects in the present system. I would like the Select Committee to approach their task and if we want them to discharge their duty properly, we must give them sufficient time.

Sir, my other amendment is that two more names should be added to the list of names which has been given by my friend. If the names of Mr. Saileswar Singh Roy and Rai Keshab Chandra Banerjee Bahadur are accepted, I shall be grateful to him. I hope he will show this small mercy to me. I can assure him that they know about zemindary matters very well, that they are both experienced men and will be useful members of the Select Committee which my friend wants to form. I hope they will be able to hold the scale even between the tenants and the landlords.

Mr. PRESIDENT: Mr. Naziruddin Ahmad, you have not considered that the office will take two or three days to prepare the report after the deliberations of the committee, when you fixed the 22nd of February as the date for submission of the report.

Mr. NAZIRUDDIN AHMAD: Yes, Sir. May I inform you with regard to the appeals made by the Maharaja of Santosh that I am not prepared to accept them. With regard to the expression "as soon as possible" it means as much delay as possible. With regard to addition of two more names, I submit the landlords are already over-represented, and if these two names are added, it would make a landlords' committee——

Mr. PRESIDENT: No further speech is necessary on this point.

Mr. KADER BAKSH: As Mr. Ormond's consent was not taken and he is not available, the name of Mr. Stokes may be put in place of Mr. Ormond.

Mr. PRESIDENT: I accept this amendment that because Mr. Ormond is not available, Mr. Stokes may replace Mr. Ormond.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose the amendments moved by the Maharaja Bahadur of Santosh and in doing so I just want to observe that my landlord friends should give up the tactics of delaying this Bill. No useful purpose will be served by attempting to delay this Bill, they should not do it. If they want to oppose this Bill, they should do so openly and defeat the Government. But if they are not in a position to do so, I would request them not to use a subterfuge——

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I protest against the word "subterfuge."

Mr. PRESIDENT: No hon'ble member can impute any motive to any other member, but if no motive is attributed, then the expression is parliamentary and can be allowed.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am not ascribing any motive, but I used the word and stick to it.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh. On a point of order, Sir. You are the custodian of the rights of this House, and I appeal to you to give a ruling as to whether the Hon'ble Minister was right in calling our tactics as a subterfuge.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not question the Maharaj's motive, I know very well it is a motive of self-defence and is very laudable, but I certainly question his action, the action is tantamout to a subterfuge.

Mr. PRESIDENT: Order, order. The word itself is not unparliamentary, but I deprecate that such words should be used here.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: If that is your ruling, Sir, I bow down to it, but I do not withdraw the word which will remain there.

Mr. PRESIDENT: The point is, it being not unparliamentary, I cannot compel him to withdraw.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The Maharaja Bahadur has said that it will take a long time to discuss a Bill like the present one which is of a very complicated character and that is why he had moved that the Bill should be referred to a Select Committee with directions to submit its report by some time in July. I venture to think that it is too long a time to be spent on a Bill of this character. It is not a Bill of a complicated nature as the Maharaja Bahadur seems to think. Some of the provisions of this Bill have been before the public for a very long time and public opinion has crystallised on them. The election was fought on this issue, and I dare say that public opinion is not likely to change within the next few months, even if the Maharaja Bahadur makes an endeavour in that direction. The Maharaja Bahadur has said that I was following a policy of opportunism. I can assure him that I never do it, it is not in my nature to follow a policy of opportunism. We are following a policy which has behind it the support practically of the whole of Bengal. So the Maharaja Bahadur was really not correct in describing the Government policy as a policy of opportunism. We are not hoodwinking the tenants. This is another expression used by the Maharaja Bahadur, who is so very anxious to insist on others using parliamentary language. He has ransacked the dictionary in selecting such expressions and for casting aspersions practically on every section of the House. Those who live in glass-houses must not throw stones at others. The Bill proposes to give certain relief to the tenants of Bengal which is of an immediate character. Take for instance, the abolition of the *salami*. The Maharaja thinks that it will make the tenants of Bengal landless in no time. I can assure him that it is not going to be the effect because nine-tenths of the tenants are directly the tillers and they are also the sellers. So twenty per cent. of their credit will be increased by the abolition of the *salami*. Only one-tenth of the area is really under sub-tenants, and there is not much chance of the tenants losing their

holdings to money-lenders. If there was any risk, they would have lost them by this time. Under the Act of 1928 holdings were made transferable, but statistics show that no much holdings passed out of the hands of the actual tillers into the hands of money-lenders.

Then as regards the Maharaja's demand that Government must make a declaration with respect to their policy regarding the Permanent Settlement, I venture to submit, Sir, that that question is not directly in issue at present. The Government propose to appoint a Commission. The Commission, I hope, will go into this question very carefully, and the Government policy with regard to the Permanent Settlement will be decided on the recommendations of that Commission. Permanent Settlement remains where it was, and Permanent Settlement is not proposed to be infringed by this Bill.

With these few words, Sir, I oppose the Maharaja's motion and I accept the amendment that has been moved by my friend, Mr. Nazir-uddin Ahmad.

Mr. H. C. STOKES: Sir, we here also support the amendment motion which has been moved by Mr. Naziruddin Ahmad, but in doing so I feel that I must once again make our position quite clear. We have accepted from the very start the cardinal principle, the main principle of this Bill which is that better conditions should be secured for the tillers of the soil. But there are provisions in the Bill which we cannot accept, and in its present form we must vote against it. But we have considered, Sir, right from the start that there should be some possibility of a compromise between the views of the landlords and the views of the tenants. We were very glad to hear from the Hon'ble Revenue Minister that he hopes for some compromise in the Select Committee if this Bill goes to the Select Committee. We would ask him, Sir, to go further. We would ask him to say on behalf of the Government that he will use his utmost endeavours in the Select Committee to secure some measure of compromise. I also, Sir, wish to appeal to the supporters of the Government to approach this suggestion of a compromise in a spirit of generosity. It seems to us, Sir, that the tenants can afford to be generous. In making this suggestion, Sir, we of the European Group are quite disinterested. We have no axe to grind. This Bill touches our interests hardly at all. But we make the suggestion in the certainty that there is room in the land tenure system of Bengal for prosperous landlords and prosperous tenants, and we feel that such a state will undoubtedly do a very great deal to achieve the object of the Bill, the betterment of the conditions of the tillers of the soil.

We also, Sir, are very anxious to support Government. It is our declared policy to do so, and we should particularly like to do so in the first major measure which Government have brought in. The Select

Committee which has been proposed by Mr. Naziruddin Ahmad is representative of every party in the House, and it is our very earnest hope that out of its deliberations will come a compromise which will enable us to vote for the Bill, or at any rate, Sir, to stand aside in the voting.

We support the motion.

Mr. HUMAYUN KABIR: Mr. President, Sir, I beg to oppose all the motions for reference to Select Committee that have been moved, and I think, Sir, if I may say so, that this is a procedure which is more consistent than that followed by the sponsor of this Bill. If he accepts the principle of the Select Committee, I do not see any logic in his preference of the one Select Committee to the other. I would go further and say that if the Government want a Select Committee for this Bill, which in the Lower House they did not but rather opposed the move for reference to one, then I submit, Sir, that the Government should have themselves brought forward a motion for the same instead of depending on some other person, who is not a member of the Government, to do the dirty work for them if I may be permitted to use an expression like that.

Sir, I had intended to congratulate the Hon'ble Minister for Revenue for the Bill which he has sponsored. For though there are provisions in this Bill to some of which we are opposed, and others which in our opinion do not go far enough, and yet others which do not do full justice to a very large section of the actual tenantry of the land, nevertheless we were prepared to welcome it as a measure which is designed somewhat to improve the condition of the peasantry of the province, and recognise some of their legitimate rights in the land. It was a step in the right direction, and from that point of view we were prepared to congratulate the Hon'ble Minister for the Bill which he has sponsored, but by his own conduct, if I may say so again, he has taken away the grounds for our congratulations. For, we cannot understand the strange change of attitude of the Hon'ble Minister in respect of a Bill about which he has himself stated before and has stated to-day that public opinion has crystallised, a Bill about which he has stated that there is no likelihood of public opinion changing in the course of six months, or three months or four weeks or perhaps six years. In the case of this Bill, he has himself admitted that the issues are crystallised before the public, he has himself admitted that the elections were fought on its principles and pledges given and the Government has seriously brought this Bill forward as an attempt to satisfy their own election pledges, and yet, even in respect of a Bill like that we are now told that it must be sent to a Select Committee. Sir, I cannot do better than read a very short but able speech delivered by the Hon'ble Minister for Revenue in the Lower House, a speech of

only ten or twelve lines, which I think defeats the case for referring this Bill to a Select Committee more successfully than many longer speeches. With your permission I shall read only a few lines from that--

> "I had occasion to state that the main provisions of this Bill had been before the public during the last six or seven years. No useful purpose should therefore be served by referring this Bill to a Select Committee."

What "useful purpose" can be served now, at this stage, after six months have passed, by referring it to a Select Committee? What dangers in this Bill have the Government found? In the meanwhile have they gained wisdom? Are we then to understand that when the Government introduced this Bill in the Lower House they did not know their own minds, and that they were impelled to do things which they did not want? Are we to understand that considerations have arisen in the meantime which force them to give up a measure which they know to be good, and yet dare not carry through in this House? Either they were wrong at that time, or they are wrong to-day. In any case by their own action, I submit, Sir, the Government stand self-condemned in attempting to send this Bill to a Select Committee. But this is not all. The Hon'ble Minister proceeded as follows:—

> "It is not a piece of hasty legislation."

And here again we do not know where we stand, for to-day again the Hon'ble Minister has repeated the statement "it is not a hasty legislation." He has further assured us that it is not a very complicated measure though there may be one or two sections in which there are some difficulties, and yet the Select Committee motion which he has accepted was moved precisely on the ground that it is a complicated measure. Therefore, what is the position, Sir? Government do not accept the *raison d'etre* of the Select Committee. Mr. Naziruddin Ahmad's motion was that it is a complicated measure and therefore should be sent to a Select Committee. The Hon'ble Minister seems to argue that it is not a complicated measure and therefore it should be sent to a Select Committee!

Mr. PRESIDENT: Is the hon'ble member opposing the motion for reference to a Select Committee?

Mr. HUMAYUN KABIR: Certainly Sir, I am opposing all the motions for reference to Select Committee, for I want that this Bill should be considered here on the floor of the House; we regard it Sir, as merely, if I may use the very much maligned expression which has

been used on many occasions to-day on the floor of the House, a subterfuge, a delaying tactics to send it to the Select Committee and how, I propose to show later on.

Sir, I have considered one or two points raised by the Hon'ble Minister for Revenue, that it is not a piece of hasty legislation and that it is not very complicated, and I take him at his word. There are only two alternatives possible. Either, the Government did not pay any heed to this Bill all these ten or eleven months and the Bill is now on the floor before us to-day, or, it cannot be a piece of hasty legislation for, if the Government have devoted their minds, if they have any, as well as the minds of the officers whom they can command to this question, the Bill is the result of the deliberate policy of the Government. Well, this is a Bill which has been discussed on the floor of the Lower House and by trying to send it to a Select Committee now, the Government are simply showing that they turn and turn and turn again at every break of wind, and every time they turn, they turn in a different direction. Like a chameleon, they change their colour under the urgency of mere self-preservation to conform to the environments in which they might find themselves.

The Hon'ble Minister went further and said in the Lower House "The number of amendments that have been put in shows that even if the Bill be referred to a Select Committee, there is not much chance of——

Mr. PRESIDENT: Order, order. The hon'ble member cannot enter into discussing each argument that was used in the Lower House.

Mr. HUMAYUN KABIR: I shall take out only one more relevant statement and proceed no further. The Hon'ble Minister said. "The number of amendments that have been put in shows that even if the Bill be referred to a Select Committee, there is not much chance of unanimity. It will be a mere waste of time" and I submit, Sir, that the number of amendments which we have here to-day will also show that reference to a Select Committee is merely a waste of time, in order to delay what probably the Hon'ble Minister wants to defer. I cannot understand why the Hon'ble Minister, after his vehement opposition to the reference of this Bill to a Select Committee in the Lower House, has suddenly veered round and wants to refer it to that very Select Committee which at one time was in his opinion unnecessary and futile. Is it because he now repents of his former zeal and wants to put back the clock of progress in Bengal, the clock which is out of order for a very long time?

To come further to specific arguments as to why we do not want this Bill to go to a Select Committee, I have already given some of

our reasons, quoting the words that came out of the lips of the Hon'ble Revenue Minister himself. He has pleaded successfully in the Lower House why this Bill should not be sent to the Select Committee, and he convinced the Lower House. Now he is pleading that it should be sent to a Select Committee, but has he advanced any arguments in favour of his change of front? I am sure those who are prepared to consider the question at issue dispassionately will agree with my contention that if Government did not consider reference to a Select Committee necessary in the Lower House on the ground that the implications of the particular amendments which were moved were clear, to-day after those things have been discussed threadbare in the Lower House, there is still less reason for wanting to refer the Bill to a Select Committee. It is useless for anyone to say that we in this House do not understand the implications of the particular amendments. This Bill as amended, was passed in the Lower House on the 30th September, 1937, and this is practically well towards the end of February. If during all these several months the members of this House have not taken the trouble of attending to this Bill, what guarantee is there that any useful purpose will be served by now referring the Bill to a Select Committee for only fourteen days more?

There is further, Sir, this point. There is a sharp difference of opinion about the principles of the Bill as has been evidenced on the floor of this House. My hon'ble friend the Maharaja of Santosh is always very courteous in his expressions, and if I may say so, if we may take his courtesy on the floor of the House as an earnest of his behaviour towards his tenants, then I am prepared to believe that he is a benevolent landlord, but our question is not about the benevolence or otherwise of landlords. It is a question of principles. The question is, in whom lies the proprietary rights of the land? Into that question I do not want to go at this moment. I will only say the Maharaja has raised a point which touches the very principle of the Bill, not the particular provisions, but the very basis and the fundamental assumptions of the Bill. Similarly, with regard to my friends in the European group, they also are not prepared to accept the Bill as it is to-day and their speeches have made it quite clear. They do not want a reference to a Select Committee for minor improvements or verbal amendations, but they want a thorough overhaul of the Bill. They want a revision of the principles which have gone to the making of this Bill, and if the Hon'ble Minister is now prepared to say that the principles which he advanced at one time are not the principles upon which he stands to-day, he will be quite welcome to do so. But I would ask hon'ble members of the Coalition Party if they are prepared to say that the principles of the Bill while in discussion in the Lower House are no longer the principles on which they stand at present, if they are prepared to abandon the principle——

Mr. PRESIDENT: The Select Committee cannot change the principles of the Bill. It has no right to change the principles of the Bill, but it certainly can change all the clauses even, if necessary, provided the principle remains intact. There is no difficulty about coming to a compromise without violating the principle.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: On a point of order, Sir, I should like to know whether the Select Committee can so alter the Bill that it becomes almost a new Bill, and report to the Council thus?

Mr. PRESIDENT: There are instances where committees have changed almost everything of a Bill except the short title and the preamble. But Committees are precluded from changing the principle of the Bill.

Mr. HUMAYUN KABIR: I accept that ruling. My argument is, if a Select Committee can change all the provisions of a Bill except the short title and the preamble, the principle of the Bill will also have changed in fact.

Mr. PRESIDENT: You cannot change the principles of the Bill, but you can extend the scope of the Bill in the Select Committee.

Mr. HUMAYUN KABIR: I submit that in this Bill the principles are not explicitly stated, and so the Select Committee business goes out of the question, so far as this Bill is concerned.

Mr. PRESIDENT: It has been stated clearly. I have explained once before that the principle has been quoted as "ameliorating the condition of the cultivators." That is the general principle of the Bill, i.e., to lessen the burden of the cultivators.

Mr. HUMAYUN KABIR: "Lessening the burden of the cultivators" is a very general term, and that principle may not be altered, but particular provisions with regard to abolition of pre-emption, with regard to the abolition of *salami*, and provisions with regard to the reduction of rent, which are also connected with the condition of the tenants and are meant to alleviate their grievances, may be altered. If these principles are altered, then the principle of the Bill is also altered, though not in the technical sense of the term.

However, Sir, I proceed. It has been sufficiently evidenced by the speeches made on the floor of this House that there is a sharp difference of opinion with regard to the provisions of the Bill. I do not bring in the question of principle, but with regard to the provisions there is a sharp difference of opinion. We have been told that this Bill will not

be acceptable unless the provisions are radically altered. The arguments advanced on behalf of the progressive group and the European Group make it clear that the provisions which they have in mind are very different from the provisions which the Government have in view, and I leave it to the Government and the members of the Coalition Party to judge this for themselves.

Further, I would say this. We consider that the move for reference to a Select Committee is merely a device on the part of Government for taking time. I know that a time limit has been fixed, that the report is to be submitted by the 28th February, but how are we to know, what guarantee is there that the committee at the end of that time would not approach the Council asking for further time? If that be so, I am sure, that the House will be compelled to grant further time at that stage, because the arguments for it will then be almost unanswerable. The argument will be "The committee has worked for only fourteen days, and only three or four days' more time is necessary, and the work will be complete." And in this way extension of time will be given again and again and there will be no decision in the near future, therefore, this question of referring to a Select Committee will be only a waste of time, and I would put it to the Hon'ble Minister for Revenue, that it is he, and not the Maharaja of Santosh, who is guilty of dilatory tactics.

There is this further consideration which also we must keep in mind, namely, that among the Select Committee members, there will be as sharp differences of opinion and contradictory views as we find among the different groups here to-day. The Select Committee is not going to change the fundamental issues and it will not in any way prevent the same arguments and the same amendments being moved on the floor of the House again. Therefore the time taken up by the Select Committee would be a sheer waste of time, because the same amendments would come up again.

Further, Sir, I would make one other point before I conclude and that is this: the number of amendments has been commented upon as being very large. Naturally, in an important measure like this—in a major measure like this, it is inevitable that people should have clearly-defined ideas, but, nevertheless, if we go into the amendments, we shall find that many of them repeat the same principle over and over again. I submit that these amendments can easily be classified into smaller groups, and these groups of amendments could easily be discussed on the floor of the House.

I would put it to the Hon'ble Revenue Minister; that if a House of two hundred and fifty members, without the advantage of previous discussion, could deal with this Bill without referring it to a Select Committee, then a House composed of a much smaller number, and with the experience of the discussion of these matters in another House,

could equally deal with this Bill without referring it to a Select Committee. I fail to understand what is there in this House to prevent us from discussing it clause by clause.

Sir, I, therefore, oppose all the motions for reference to a Select Committee with all the vehemence that I can command.

Mr. KAMINI KUMAR DUTTA: Sir, I oppose both the motions for referring this Bill to a Select Committee. One of the motions has been characterized as in the nature of dilatory tactics, and the other motion has equally been styled as white-washing tactics,—to white-wash what no one knows—perhaps to white-wash the sins of the Ministry. As a matter of fact, whether it be delaying tactics or white-washing tactics, both are equally not to be accepted. What is really the utility of referring this Bill to a Select Committee? I need not, at this stage, refer to the propriety or impropriety of the Permanent Settlement. This would rather be foreign to the motions now before the House. Whether Permanent Settlement is a boon to Bengal or whether it is not, or whether it is really a base imitation of British feudalism, is a matter which does not concern us to-day. We are to-day concerned with the question of the law of tenancy, as it exists in Bengal. This Bill is not a new Bill. It is not even an amendment of the entire law as between landlord and tenant. It is only a piecemeal legislation asking for an amendment of some of the sections of the Bengal Tenancy Act. Though the Bill professes to ameliorate the conditions of the *raiyats*, yet the scope of the Bill is extremely limited. It is confined only to a few sections. It can well be said that, as the principle is well laid down, there is some chance of a reconciliation between different standpoints in the Committee, but looking at the sheaves of amendments, it is quite apparent that those amendments have come from two different viewpoints altogether. The angle of vision is totally different. While one group considers it conducive to the welfare of the tenants, the other group thinks that it is not a blessing at all. So, it can well be said that a reference to a Select Committee can never be expected to lead to a peaceful reconciliation of the two idealogies which are really working in the minds of the members, because there is a difference in the idealogies themselves. We often find nowadays that whenever there is any progressive movement, the bogey of communism or the bogey of socialism is raised, as if these were very baneful things. I need not, however, discuss these things now, but one thing cannot be gainsaid and it is that there is an insistent demand in the country for the amelioration of the conditions of the *raiyats*, the tillers of the soil. There is a persistent demand for change being effected in the law of tenancy, and that demand has to be met. There is a lurking suspicion in the minds of many of us that any move for delaying the passing of the Bill is directed only to shelve it as long as it can be

done. Looking at the amendments and at the spirit of the amendments and having some experience of law courts, I say that a reference to a Select Committee will be altogether useless. These very questions will have to be agitated again in this House. So, I submit that a reference to a Select Committee ought to be rejected, and that the consideration of the Bill ought to be taken up at once in this House.

Mr. NUR AHAMED: Mr. President, Sir, I rise to clear up some doubts which are very much present in my mind, and which have been created after the acceptance by the Hon'ble Revenue Minister of the motion for reference of this Bill to a Select Committee. Sir, there was a vehement attempt, a furious attempt I might say, in the Lower House to refer the Bill to a Select Committee. These attempts were persistent and insistent but the Hon'ble Minister in charge of the Bill strongly opposed the motion for reference to a Select Committee. The Hon'ble Minister emphasised at that time that the Bill contemplated no radical change in the land tenure system of Bengal. It was intended to remove some immediate grievances of the tenants which were already before the country for last seven or eight years. It was not a hasty measure and it would be a mere waste of time to refer it to a Select Committee. I fail to realise what has happened in the meantime to persuade the Hon'ble Minister in charge to accept the motion for reference to a Select Committee.

It is well known, Sir, to hon'ble members of this House as well as to the Hon'ble Revenue Minister that this Bill is not intended to bring about a fundamental and radical change in the tenancy law of this province. It is a Bill which is primarily intended to remove some pressing grievances of the tenants, and, as we all know, it will be sheer waste of time to refer it to a Select Committee.

Sir, the Hon'ble Chief Minister, while congratulating the Assembly on the final and third reading of the Bill, said that this Bill reflected much credit on the Government of Bengal as compared with the work of Governments in other Provinces. If here the Bill be referred to a Select Committee, it would be mutilated by that Committee, and would require redrafting, and there will be unnecessary delay. As I am a supporter of the Cabinet, I am not going to vote against the motion; but as an individual member I want an assurance from the Hon'ble Minister in charge that the Bill will not be delayed unnecessarily in the Select Committee.

We have heard, Sir, from our European friends that there is every likelihood of a compromise being reached among the conflicting viewpoints in this House, if this Bill were referred to a Select Committee. Sir, even on the question of compromise a great uproar is likely to result in the country. This fact has been admitted by the Hon'ble Minister

in charge. He has also admitted that Government should have power in their hands for removing these grievances of the tillers of the soil.

The other day my hon'ble friend, Mr. Humayun Kabir, referred to the editorial of the *Statesman* in its issue of the 8th February last. Sir, in my opinion, the editorial of the *Statesman* is surely an authoritative one and I quote the opinion for the information of my learned European friends. The editor of the *Statesman* was deliberately of opinion that considering the condition of Bengal, the measure introduced by the Government of Bengal is a very mild measure. It was not unjust and confiscatory. On the other hand, it was a very useful measure to remove the grievances of the poor tenants. So with these words, I would only appeal to the Hon'ble Minister in charge of Revenue to consider whether it would be for the benefit of those for whom he has taken so much pains and in view of the fact that the Bill was passed by the Lower House, it would be wise to delay the Bill by reference to a Select Committee.

Mr. NARENDRA CHANDRA DATTA: Sir, I rise to oppose this motion for reference to the Select Committee. The only ground urged by the representative of the European Group was that if there were any possibility of a compromise, then and then only any useful purpose would be served by sending the Bill to a Select Committee. Even if we do not agree with this view, yet it is understandable and reasonable; but we find that almost all the groups have definite opinion about the Bill. The Proja Party, the Progressive Party, the Congress and the European Group have cast their votes in the Lower House according to their conviction, and we do not for a moment believe that they can in a Select Committee be so reasonable and forget the past discussions and opinions that they can come to any agreement. If there be no agreement —there is no chance of agreement—it will be waste of time to refer this Bill to a Select Committee. The object of the Government has not been made clear by the Hon'ble Revenue Minister, why instead of putting forward a motion for referring the Bill to a Select Committee on behalf of Government, they took shelter under another hon'ble member and put him forward to move the motion which the Hon'ble Minister so generously accepted. I do not like to probe into the secrets of that change. Those who can read the signs of the time know very well what has led to this. It may be that the Government is now anxious to placate the European Group and that may be the reason why they have come forward with the proposal for reference to a Select Committee. Whatever may be their motive, it is quite clear that this ought not to be allowed and there should not be any more delay. The Lower House has passed the Bill in September last and this House ought to have passed this Bill within a month and a half. But instead of that, after a lapse of months, the proposal comes for reference to a Select Committee. After the Bill

has been discussed fully and thoroughly in the Lower House and after votes having given this way or that way, would it be of any value to send the Bill, on the same subject and on the same matter, to a Select Committee? I think, Sir, this is a kind of tactics the reasons of which are not unknown, but which should not be tolerated by the House and the Bill should be taken up by this House without referring it to a Select Committee.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, I rise to explain the position of the Government. I do not take my friend Mr. Humayun Kabir very seriously in this matter, because he and some of the other speakers like my friend Mr. Narendra Chandra Datta are here to oppose the Government. It is by opposition that they thrive: they have no other business here; otherwise an educated man and a professor like Mr. Humayun Kabir would not have taken the plea that the hands of the clock of the improvement of the conditions of the tenants would be set back by referring this Bill to a Select Committee for ten days. I know that any measure which the Government will initiate will not find favour with Mr. Humayun Kabir or Mr. Narendra Chandra Datta. (Question!) You may put questions, but your occupation will go if you support this Bill.

Now, coming to what I was saying—Government is not at all anxious that this Bill should go to the Select Committee. It was not their plan; they are as anxious as anybody in this House that this Bill should not be delayed. Government in the Lower House opposed the reference to a Select Committee because it would take a long time. Here some of the party leaders approached the Government and said that by referring the Bill to a Select Committee it might be improved here and there.

Maharaja Sir MANMATHA NATH RAY CHAWDHURY, of Santosh: May we know the names of the persons who apprpoached?

The Hon'ble Mr. NALINI RANJAN SARKER: I am not going to mention any names. The Maharaja interrupts me and says who has approached Government. He has himself by his attitude in the House supported the reference to a Select Committee and he should now join issue with me.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: There is difference between approaching and moving for reference to a Select Committee.

The Hon'ble Mr. NALINI RANJAN SARKER: Although he may not have approached Government himself, some of the members of the group of which he is the leader approached Government.

The policy of the Government is that if this House is of the opinion that this Bill should be considered item by item, Government certainly will have no objection. Then about the acceptance of the motion of the Select Committee moved by Mr. Naziruddin Ahmad, Government is certainly free to accept any Select Committee they think to be representative. Mr. Naziruddin's Committee has been taken from every group and even Mr. Humayun Kabir has accepted to serve on this Committee. So that Committee being the most representative in this House, Government think that if a Committee is to be accepted, they should accept Mr. Naziruddin's Committee. But I can assure this House that Government have no idea of delaying this Bill. As a matter of fact they are determined to get this Bill passed into law within this session.

Mr. PRESIDENT: The question before the House is that the Bill be referred to a Select Committee consisting of the following persons:—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister in charge of the Revenue Department,

(2) Mr. D. H. Wilmer,

(3) Mr. E. C. Ormond,

(4) Mr. Kanai Lal Goswami,

(5) Rai Brojendra Mohan Maitra Bahadur,

(6) Mr. Kamini Kumar Dutta,

(7) Mr. Sachindra Narayan Sanyal,

(8) Rai Radhica Bhusan Roy Bahadur,

(9) Mr. Rezzaqul Haider Chowdhury,

(10) Khan Bahadur Ataur Rahman,

(11) Mr. Humayun Reza Chowdhury,

(12) Khan Sahib Abdul Hamid Chowdhury,

(13) Khan Bahadur M. Abdul Karim,

(14) Nawabzada Kamruddin Haider,

(15) Mr. Mesbahuddin Ahmed,

(16) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,

(17) Rai Manmatha Nath Bose Bahadur,

(18) Rai Keshab Chandra Banerjee Bahadur,

(19) Rai Satis Chandra Mukerji Bahadur,

(20) Mr. Nagendra Narayan Ray, and

(21) the mover,

with instructions to submit its report on the 7th June 1938 and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

The motion was lost.

Mr. PRESIDENT: Two more amendments to Mr. Naziruddin Ahmad's amendment have been moved as follows:—

(1) That in the proposed amendment received on the 8th February 1938 from Mr. Naziruddin Ahmad for referring the Bill to a Select Committee for the words "by the 22nd February 1938" the words "as soon as possible" be substituted.

(2) That in the proposed amendment received on the 8th February 1938 from Mr. Naziruddin Ahmad for referring the Bill to a Select Committee after the name of Rai Satis Chandra Mukherji Bahadur the following names be inserted, namely:—

Mr. Saileswar Singh Roy, and

Rai Keshab Chandra Banerjee Bahadur.

The amendments were lost.

Mr. PRESIDENT: The question before the House is that the Bill be referred to a Select Committee consisting of the following members with instructions to submit their report by the 28th February, 1938:—

(1) The Hon'ble Sir Bijoy Prasad Singh Roy, Minister in charge of the Revenue Department,

(2) Mr. Radha Kumud Mookerji,

(3) Mr. Bankim Chandra Datta,

(4) Mr. Shrish Chandra Chakravarti,

(5) Mr. Lalit Chandra Das,

(6) Maharaja Sir Manmatha Nath Ray Chowdhury, of Santosh,

(7) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,

(8) Rai Manmatha Nath Bose Bahadur,

(9) Rai Satis Chandra Mukherji Bahadur,

(10) Mr. D. H. Wilmer,

(11) Mr. H. G. Stokes,

(12) Mr. Nagendra Narayan Ray,

(13) Mr. Humayun Kabir,
(14) Khan Bahadur Saiyed Muazzamuddin Hosain,
(15) Khan Bahadur Abdul Karim,
(16) Mr. Naziruddin Ahmad,
(17) Mr. Hamidul Huq Chowdhury,
(18) Mr. Rezzaqul Haider Chowdhury,
(19) Mr. Kader Baksh,
(20) Mr. Mukhlesur Rahman,
(21) Khan Bahadur Ataur Rahman,
(22) Maulana Muhammad Akram Khan,
(23) Rai Radhica Bhusan Roy Bahadur,
(24) Khan Sahib Abdul Hamid Chowdhury,
(25) Mr. Mesbahuddin Ahmed,
(26) Khan Bahadur Maulvi Muhammad Ibrahim,
(27) Rai Brojendra Mohan Maitra Bahadur,
(28) Rai Sahib Jatindra Mohan Sen,

and that the number of members whose presence shall be required to form a quorum shall be eight.

The House devided.

AYES—37.

Ahmad, Mr. Naziruddin.
Ahmed, Mr. Mesbahuddin.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Bose, Rai Bahadur Manmatha Nath.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Chowdhury, Mr. Humayun Reza.
Chowdhury, Mr. Rezzaqul Haider.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Elahi, Khan Bahadur S. Fazal.
Haider, Nawabzada Kamruddin.
Hamida Momin, Begum.
Hossain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Huq, Mr. Syed Muhammad Ghaziul
Ibrahim, Khan Bahadur Maulvi Mohammad.
Karim, Khan Bahadur M. Abdul.
Khan, Maulana Muhammad Akrum.
McFarlane, Mr. J.
Molla, Khan Sahib Subidali.
Mukherji, Rai Bahadur Satis Chandra.
Rahman, Khan Bahadur Ataur.
Rahman, Mr. Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Ray, Mr. Nagendra Narayan.
Roy, Rai Bahadur Radhica Bhusan.
Roy Chowdhury, Mr. Krishna Chandra.
Sarkar, Rai Sahib Indu Bhusan.
Sen, Rai Sahib Jatindra Mohan.
Shamsuzzoha, Khan Bahadur M.
Sinha, Rai Bahadur Surendra Narayan.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Stokes, Mr. H. G.
Wilmer, Mr. D. H.

NOES—13.

Chakravarti, Mr. Shrish Chandra.
Chaudhury, Mr. Moazzemali.
Das, Mr. Lalit Chandra.
Datta, Mr. Baakim Chandra.
Datta, Mr. Narendra Chandra.
Dutta, Mr. Kamini Kumar.
Goswami, Mr. Kanai Lal.
Jan, Khan Bahadur Shaikh Muhammad.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Pal Choudhury, Mr. Ranajit.
Sanyal, Mr. Sachindra Narayan.

The motion was adopted.

Mr. PRESIDENT: Order, order. The House now stands adjourned till 2-15 p.m. to-morrow, Tuesday, the 15th February, 1938.

Adjournment.

The Council then adjourned till 2-15 p.m., on Tuesday, the 15th February, 1938.

Members absent.

The following members were absent from the meeting held on the 14th February, 1938:—

(1) Banerjee, Rai Bahadur Keshab Chandra.

(2) Esmail, Khwaja Muhammad.

(3) Hossain, Mr. Mohamed.

(4) Khan, Khan Bahadur Muhammad Asaf.

(5) Mookerji, Dr. Radha Kumud.

B. G. Press—1938-39—1404A—908.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Tuesday, the 15th February, 1938, at 2-15 p.m., being the tenth day of the First Session, pursuant to section 62(2)(*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Political prisoner Babu Mohesh Chandra Barua.

151. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*i*) whether it is a fact that Babu Mohesh Chandra Barua, a political prisoner, died in Rajshahi Central Jail on the 1st January last of tuberculosis;

(*ii*) whether the said prisoner hailed from Chittagong;

(*iii*) how many political prisoners hailing from the district of Chittagong died of tuberculosis in course of last four months and what are their names;

(*iv*) what was the age of Mohesh Barua at the time of his death; and

(*v*) for how long he suffered from tuberculosis?

(*b*) Will the Hon'ble Minister be pleased to lay on the table a copy of the history sheet of his disease since its start down to the time of his death?

(*c*) Will the Hon'ble Minister be pleased to state whether his relatives were informed of his impending death?

(*d*) If so, how many days before his death was the intimation given to them?

(*e*) Were the Government petitioned to release him on grounds of his health?

(*f*) Is there any rule by which a political prisoner on grounds of ill health can be released?

(*g*) Will the Hon'ble Minister state why Mohesh Babu was not released and given a chance of treatment in sanatorium such as at Jadavpur?

(*h*) Is the Hon'ble Minister considering the desirability of giving political prisoners suffering from tuberculosis a chance to save their life by releasing them in time in future?

(*i*) If not, why not?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) (*i*) A convicted prisoner of that name died in Rajshahi Central Jail on the 1st January, 1938.

(*a*) (*ii*), (*c*) and (*e*) Yes.

(*a*) (*iii*) I regret that no separate vital statistics are maintained by the Jail Department for individual districts or for prisoners convicted of crimes committed in furtherance of political movements.

(*iv*) thirty-four years.

(*c*) I am unable to say when he contracted the disease, but its presence was diagnosed beyond doubt in March, 1937.

(*b*) The publication of departmental prison records regarding individuals is not a desirable practice.

(*d*) It was given in March and again in July, and the prisoner was visited by his uncle on the 26th December, 1937.

(*f*) There are no rules specially applicable to persons convicted of crimes committed in connection with political movements. As to the rules applicable to all prisoners the hon'ble member is invited to refer to Bengal Jail Code Rules 591 and 592 and the note appended to the same.

(*g*) to (*i*) Government cannot release infectious tuberculosis cases "on chance". As a preliminary to consideration they must be satisfied by the relatives that adequate treatment and segregation has in fact been arranged and will be provided.

Release of Detenus.

152. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) Whether to a question put in this Council on the 14th September last, the Hon'ble Minister replied to the effect that the number of persons detained under Regulation III, the Bengal Public Security Act, the Bengal Suppression of

Terrorist Outrages Act and the Bengal Criminal Law Amendment Act totalled 2,392?

(*b*) How many detenus were released between last September and November before the order of release of 1,100 detenus was made in November last; whether it is correct to infer that 842 detenus were released in this period?

(*c*) If the last answer is in the negative, will the Hon'ble Minister please explain if the total number of detenus was 2,392 in September last and there was a release order of 1,100 detenus in November last, how could there remain only 450 detenus to be released as appeared in the Government communique?

(*d*) Is it a fact that some time before the order of release of these 1,100 detenus was made, the Coalition Party's opinion in this connection was obtained by Government? If so, did the Coalition Party oppose the release of the rest of the detenus along with these 1,100?

(*e*) Will the Hon'ble Minister be pleased to explain—why Government, having taken steps to release 1,100 detenus at a time, failed to release the rest who were being detained without trial for years?

(*f*) Is it a fact that prior to the order of release of these 1,100 detenus, there were 1,258 persons in detention in either their homes or in villages; if not, how many were so interned?

(*g*) (*i*) How long did it take to release them, and (*ii*) how many of them were internees in camps and jails at the time of their release?

(*h*) Were those November releases followed in accordance with the declarations of policy made by the Hon'ble Home Minister on the 9th August and 16th August in the Assembly and in the Council respectively?

(*i*) Is it a fact that in framing, pursuing or abrogating the policy of internment and in making releases of persons interned in detention, the responsibility is solely with the Ministers?

(*j*) If the answer to (*i*) is in the affirmative, what prevented the Ministers from adopting and carrying out the policy of large release before the advent of Mahatma Gandhi in Bengal?

(*k*) Is it a fact that those released detenus are required to notify their address or change of address to the police?

(*l*) Are the Government aware that such conditions of notifying address are prejudicial to the self-respect of those released persons?

(*m*) Are the Government aware that ordinary non-political criminal suspects or "C" class *daghis* are required to notify their address or change of address to the police?

(*n*) Are the Government aware of the fact that if requirements of notifying address or changes of address are made, it will make it difficult for those released detenus to find employment or accommodation elsewhere?

(*o*) Do the Government consider the desirability of withdrawing from the released detenus these restrictions of notifying addresses or changes of addresses?

The Hon'ble Khwaja Sir NAZIMUDDIN: The circumstances in which the Ministry acted and the reasons for their action have been clearly set forth in the communique to which the hon'ble member refers. His arithmetical calculations are apparently based on an answer which includes factors to which the approximate figure given in the communique has no reference, with the result that his deductions are not reconcilable with the facts. The notification of addresses so far from imposing any disability facilitates assistance, and it is not the intention of Government to withdraw such orders at present.

Violence committed by the Terrorists.

153. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether in reply to question No. 81 on the 21st September last, the Hon'ble Minister stated that during twelve months ending in July, 1937, three cases of violence were committed by the terrorists, viz.:—

(*i*) one murderous assault (February, 1937) in Chittagong.

(*ii*) one assault (April, 1937) in Mymensingh, and

(*iii*) one highway robbery (July, 1937) in Dacca;

(*b*) whether in referring to the Chittagong case, the Hon'ble Minister meant the assault of the 11th February on Paresh Gupta on whom orders of restriction were put under the Bengal Criminal Law Amendment Act; if not, to which murderous assault and upon whom, the Hon'ble Minister did refer;

(*c*) if it was Paresh's case which was referred to, whether it was not seven persons who were put on trial before the Special Tribunal;

(*d*) whether of these seven accused, two were discharged in course of trial, and the Special Tribunal acquitted four other accused persons;

(*e*) whether only Amulya Acharjea on his own confession was convicted;

(*f*) whether Amulya retracted his confession alleging that the same was made as a result of tutoring by the police; and

(*g*) whether the accused (discharged and acquitted) alleged that Paresh Gupta, the complainant, was a police spy and that the case against them was false?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) to (*d*) Yes.

(*e*) Only Amulya was convicted. The judgment shows that his confession was consistent with independent evidence.

(*f*) Yes, but the allegation was disbelieved by the Special Tribunal.

(*g*) The accused did not allege that Paresh was a police spy, nor did they allege that the case was a false one.

Schemes of Secondary Education in Bengal.

154. Mr. NAZIRUDDIN AHMAD (on behalf of Mr. Hamidul Huq Chowdhury): Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) whether it is a fact that Calcutta University authorities appointed a Committee to report on the Government schemes and proposals for establishing a Board for the control of secondary education in Bengal;

(*b*) if so, whether it is a fact that the Committee has unanimously denounced the policy of the Government to provide for the communal representation on the proposed Board to safeguard the interest of the different communities;

(*c*) if so, whether it is a fact that some Government servants sat on that Committee;

(*d*) if the answer to (*c*) be in the affirmative, whether these persons took the permission of the Government before sitting on the Committee;

(*e*) whether the servants of the Government have power under rules to criticise the policy of the Government publicly especially on controversial questions; and

(*f*) whether the Hon'ble Minister proposes to take steps to prevent Government servants from taking part publicly in political controversies which may face the Government from time to time?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of Minister in charge of the Education Department): (*a*) and (*b*) Yes.

(*c*) One Government servant was on the Committee.

(*d*) No. He was not appointed on the Committee as a representative of the Government but as a member of the University and no permission of Government was required.

(*e*) There are no rules to govern a special case of this nature. The principles hitherto followed have been that when Government officers are joining in general discussions as private individuals they are allowed to express their personal opinions. As the proposals were sent to the University for criticism, the officer was within his rights as a member of the University in expressing his private views.

(*f*) If the actions of any officer embarrass Government, they will then consider what action to take.

The Travelling and Halting Allowances of the Hon'ble Ministers.

155. Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister in charge of the Finance Department be pleased to state—

(*a*) whether the travelling allowance, halting charge, etc., of the Hon'ble Ministers have been increased from what it was before the 1st of April, 1937;

(*b*) if so, the reason for such increase; and

(*c*) the total amount of travelling allowances, etc., drawn by each Minister separately up to the 23rd of January, 1938?

MINISTER in charge of the FINANCE DEPARTMENT (the Hon'ble Mr. Nalini Ranjan Sarker): (*a*) As I have already stated in reply to the hon'ble member's question No. 99 at this session, it has been decided to make certain amendments in the travelling and daily allowance rules applicable to Ministers.

(*b*) Because it is found that the rules as they now stand, do not adequately cover the touring expenses of a Minister.

(*c*) A statement is laid on the table.

Statement referred to in the reply to question No. 155(a) showing expenditure on account of travelling allowances (including payments made by Government to the Railways for carriages requisitioned) of Hon'ble Ministers from the 1st April, 1937, to 31st December, 1937.

The figures have been compiled from the information received so far in this department. In this connection, it may be noted that there

might be some more tours, the intimations with regard to whose costs have not yet been received from the Railway offices.

		Rs.	a.	p
1.	The Hon'ble Mr. A. K. Fazlul Huq ...	5,018	4	3
2.	The Hon'ble Mr. N. R. Sarker ...	1,945	9	0
3.	The Hon'ble Khwaja Sir Nazimuddin, K.C.I.E.	2,553	11	3
4.	The Hon'ble Sir B. P. Singh Roy ...	3,801	5	9
5.	The Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca ...	6,576	4	9
6.	The Hon'ble Maharaja Srischandra Nandy, of Kasimbazar ...	2,673	3	6
7.	The Hon'ble Mr. H. S. Suhrawardy ...	2,552	9	0
8.	The Hon'ble Nawab Musharruf Hossain, Khan Bahadur ...	3,231	14	9
9.	The Hon'ble Mr. Syed Nausher Ali ...	2,326	5	9
10.	The Hon'ble Mr. P. D. Raikut ...	2,737	14	9
11.	The Hon'ble Mr. M. B. Mullick ...	1,851	0	0

Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister be pleased to state whether their tour programmes are discussed in a meeting of the Ministers or a Minister is entitled to undertake journeys as long and as many times as he likes in his tour?

The Hon'ble Mr. NALINI RANJAN SARKER: It is settled by the Hon'ble Ministers themselves independently.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state whether the Hon'ble Ministers draw up their programmes of tours beforehand individually or are the tours undertaken from time to time as occasion arises?

The Hon'ble Mr. NALINI RANJAN SARKER: They prepare their programmes as occasion arises.

Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister be pleased to state if the estimate of cost of tour programmes of the Hon'ble Ministers is placed before the Finance Minister for approval?

The Hon'ble Mr. NALINI RANJAN SARKER: I have no control over the action of other Ministers so long as they comply with the rules.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state if the Government proposes to consider the advisability of drawing up tour programmes to cover a particular area of the province at a particular time rather than doing it at subsequent times?

The Hon'ble Mr. NALINI RANJAN SARKER: It cannot be done.

Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister be pleased to state if the Finance Minister is entitled to stop the undertaking of tours by Ministers when the funds are exhausted?

The Hon'ble Mr. NALINI RANJAN SARKER: Certainly not. That is the responsibility of individual Ministers.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state whether, with reference to the answer to my last question, arrangements for tour programmes in different areas cannot be done beforehand?

The Hon'ble Mr. NALINI RANJAN SARKER: The necessity for undertaking a tour in a particular area cannot be anticipated one year, six months or four months before.

Mr. HUMAYUN KABIR: My question was whether tour programmes cannot be so arranged as to cover a particular area of the province in one tour rather than in three successive tours, e.g., to cover in one tour Noakhali, Comilla and Chittagong, instead of three.

The Hon'ble Mr. NALINI RANJAN SARKER: That is a hypothetical question. No such eventuality has arisen in the past.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state if it cannot be done when such an eventuality arises?

The Hon'ble Mr. NALINI RANJAN SARKER: In certain circumstances it cannot be done and in others it can be done.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state in what circumstances it cannot be done?

The Hon'ble Mr. NALINI RANJAN SARKER: It may not be convenient for a particular Minister to go on tour at a particular time.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state whether the Ministers tour particular areas in pursuance of a programme or because certain accidental events occur from time to time in different areas?

The Hon'ble Mr. NALINI RANJAN SARKER: Certainly it is done under a programme, but if somewhere some accident occurs, where the presence of a particular Minister is necessary, then certainly he can alter that programme and go to the place of accident.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state if accidents which require the presence of a Minister in a particular area are of frequent occurrence?

The Hon'ble Mr. NALINI RANJAN SARKER: I do not know.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister be pleased to state if the amounts of travelling allowance shown in the statement are all charged in the budget?

The Hon'ble Mr. NALINI RANJAN SARKER: Yes, they are charged.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister be pleased to state if they are votable or non-votable?

The Hon'ble Mr. NALINI RANJAN SARKER: They are not votable.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister be pleased to state if in travelling allowance railway charges are included?

The Hon'ble Mr. NALINI RANJAN SARKER: Yes.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister be pleased to state if railway charges are also allowances?

The Hon'ble Mr. NALINI RANJAN SARKER: Railway fares are travelling allowances.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister be pleased to state if that means allowances to the Companies or to the Ministers?

The Hon'ble Mr. NALINI RANJAN SARKER: To the Ministers also.

Number of Lawyers acting on the panel of Assistant Public Prosecutors.

156. Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister in charge of the Judicial and Legislative Departments be pleased to state—

(*a*) the total number of lawyers acting on the panel of Assistant Public Prosecutors in different districts of Bengal;

(*b*) how many of them are Mussalmans;

(*c*) whether briefs are distributed to these lawyers in rotation or according to the discretion of the District Magistrate;

(*d*) whether the Hon'ble Minister considers the desirability of making any rules providing that briefs should be distributed in rotation among the members on such panel;

(*e*) whether the Hon'ble Minister proposes to revise the panels where necessary so that half the numbers at least may be Mussalmans; and

(*f*) whether there is a panel of lawyers who act as guardian of minors; if so, how many of them are Mussalmans and how many Hindus on such panel?

MINISTER in charge of the JUDICIAL and LEGISLATIVE Departments (the Hon'ble Nawab Musharruf Hossain, Khan Bahadur): (*a*) and (*b*) A statement is laid on the Library Table.

(*c*) According to the discretion of the District Magistrates governed by the nature of the cases.

(*d*) Not yet under contemplation.

(*e*) A wholesale revision of the panels for this purpose is not under contemplation.

(*f*) There is no panel of lawyers who act as guardian of minors.

Mr. HAMIDUL HUQ CHOWDHURY: With reference to answers (*d*) and (*e*), may I enquire from the Hon'ble Minister why no such proposal is under contemplation?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: You know the District Magistrates still rule the country. (Laughter.) The Ministers cannot be expected to go to every district and incur huge expenditure just to find out whether a particular case goes to A, B or C.

If you ask the Minister to go from place to place to find out whether a Magistrate is doing his job in this matter, you will have to sanction ten times as much travelling allowance as we have just now found in practice.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister be pleased to state whether the District Magistrate is under the control of the Minister or is independent of the Minister?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: If he is not under the control of the Minister, then why are you putting questions to me?

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state if the Nawab Bahadur, who has drawn the maximum travelling allowance drawn by any Minister, has visited some of the districts and made any enquiry as to why the District Magistrates are not carrying on their work?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: In the district to which he has gone he has taken pains to find out whether the work is being properly done.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister be pleased to state if that produced any result in the districts which he has visited?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Of course it has. I know, wherever I have gone, the departmental work is going on much better.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister be pleased to state how the answers (*d*) and (*e*) are correct statements of facts?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: The hon'ble member puts a general proposition before me. It is not possible for a Minister to go to all districts of Bengal and discuss the matter with the District Magistrates.

Mr. KADER BAKSH: Is the Hon'ble Minister aware that there is an insistent demand by the members of the Coalition Party to include a larger number (at least half) of Muhammadan Pleaders on the panel?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Yes, the demand is there.

Mr. KADER BAKSH: Does not the Hon'ble Minister consider it sufficient reason for taking up the matter as early as possible?

Mr. PRESIDENT: That is a matter of opinion.

Bridge over the Cossye river.

157. Rai MONMATHA NATH BOSE Bahadur: Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state—

(*a*) the amount to be spent for the bridge over the Cossye river in Midnapore;

(*b*) whether any contractor has been appointed for the project;

(*c*) if the answer to (*b*) be in the affirmative, whether the contractor is an Indian and a Bengali;

(*d*) if not, whether tenders were invited or not;

(*e*) whether any Indian submitted any tenders;

(*f*) whether any Bengali submitted any tenders;

(*g*) on what principle the tenders of the Indian and Bengali contractors were rejected;

(*h*) whether the Government intend to give preference to a Bengali contractor, and, if a Bengali contractor be not available, to an Indian contractor;

(*i*) whether the Government have any material with them to think that the construction of the bridge would improve the economic condition of the Midnapore district; if so, what they are;

(*j*) whether this bridge will improve the agricultural or health condition or further educational facilities of the district; and

(*k*) whether it is a fact that the Midnapore Municipality will incur considerable loss in the shape of ferry-tolls due to the construction of the bridge; if so, how the Government intend to compensate the municipality?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Kasimbazar): (*a*) Rs. 8,30,000 approximately.

(*b*) No.

(*c*) Does not arise.

(*d*) Tenders for the construction of the bridge have not yet been invited.

(*e*) to (*g*) Do not arise.

(*h*) The rule on the subject is that the lowest tender should be accepted unless there is some objection to the capability of the contractor, the security offered by him or his execution of former work. A Bengali or Indian contractor will be appointed if he is qualified under this rule.

(*i*) Yes, by providing facilities for cheaper transport of agricultural and other produce.

(*j*) The bridge will benefit the agriculturists as stated above. It is not likely to have any effect on the health of the locality. I cannot say whether it will provide educational facilities.

(*k*) There will be some loss to the Midnapore Municipality. The matter is under examination.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state if it is a fact that Sir John Anderson was invited to open the bridge?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar: Yes.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state what was the cost of his going to open the bridge there?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar: I want notice.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state who invited Sir John Anderson to open the bridge there?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar: I invited him to lay the foundation stone.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state who invited him to open the bridge?

The Hon'ble Maharaja SRISHCHANDRA NANDY, of Kasimbazar: We are waiting to see whom we shall invite to open the bridge as the construction of the bridge has not yet been taken in hand.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state with reference to answer (*j*), whether any enquiry has been made to ascertain if the bridge will affect the health of the locality by water-logging?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar: Whenever a bridge is constructed, attention is always given to providing for unimpeded flow of water.

Mr. HUMAYUN KABIR: With reference to answer (*a*), will the Hon'ble Minister be pleased to state if he is prepared to change the rule, so that Indian concerns may be given preference over non-Indian concerns?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar: Generally Indian concerns get the contracts, so I do not see any necessity for changing the rules at the present moment.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to say what is the point in saying that Indian contractors will be appointed if they give the lowest tender and satisfy the Government that they are in a position to carry out this work within that period?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar: It means exactly what is given in the reply.

Mr. HUMAYUN KABIR: Is the Hon'ble Minister aware that this statement does not really mean anything at all?

(No reply.)

Short-notice question.

Mr. LALIT CHANDRA DAS: Will the Hon'ble the Home Minister be pleased to state the names of political prisoners who are on hunger-strike at the Alipore Central Jail and from what date they are on hunger-strike?

What is the present state of their health?

Will the Hon'ble Minister be pleased also to state the nature of the illness, if any, from which each is suffering and also the grievances for the redress of which they are on hunger-strike?

The Hon'ble Khwaja Sir NAZIMUDDIN: No terrorist prisoner is on hunger-strike in the Alipore Central Jail.

Mr. LALIT CHANDRA DAS: I did not ask for terrorist prisoners. I asked for the names of the political prisoners who are on hunger-strike in the Alipore Central Jail.

The Hon'ble Khwaja Sir NAZIMUDDIN: Government do not recognise such a thing as political prisoners.

Mr. LALIT CHANDRA DAS: May I enquire if the Hon'ble the Home Minister did not make a statement in the Assembly the other day when an adjournment motion was being discussed over the death of Harendra Munshi, to the effect that eight political prisoners were on hunger-strike in the Alipore Central Jail and that sixteen other prisoners are also on hunger-strike while the rest of them, namely, the ordinary prisoners have given up hunger-strike?

The Hon'ble Khwaja Sir NAZIMUDDIN: I am afraid the hon'ble member has got it all wrong.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state if there are now any prisoners on hunger-strike in the Alipore Central Jail?

The Hon'ble Khwaja Sir NAZIMUDDIN: I believe there are some prisoners who are still on hunger-strike.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state what class of prisoners they are?

The Hon'ble Khwaja Sir NAZIMUDDIN: Ordinary Division III prisoners, who have not been convicted of any offence relating to terrorism.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state any reason as to why they have gone on hunger-strike?

The Hon'ble Khwaja Sir NAZIMUDDIN: As a matter of fact, they do not still give any reason whatsoever except that they want release.

Privilege Committee's Report.

Mr. HAMIDUL HUQ CHOWDHURY: Mr. President, Sir, I beg to submit the report of the Privilege Committee in regard to a matter which was referred to the Committee yesterday, namely, the control of the library, and to report as follows:—

The Council having referred the question of the Bengal Legislative Council Library, its Librarian and staff to the Committee of Privileges

appointed by the House, the Committee at its meeting held on the 14th February, 1938, considered the reference and beg to report as follows:—

"That a resolution be moved in the House asking the Secretary to convey to the authorities concerned that the control and management of the Library of the Legislature should vest in both the Houses of the Legislature and shall be administered by a joint committee of the two Houses consisting of five members of each House and the President and the Speaker, pending the framing and adoption of the rules of procedure of this House."

Sir, in consequence of this report, I beg to move a resolution in a substantive form, namely, that "the Secretary do convey to the authorities concerned that the control and management of the Library of the Legislature should vest in both the Houses of the Legislature and shall be administered by a joint committee of the two Houses, consisting of five members of each House and the President and the Speaker, pending the framing and adoption of the rules of procedure of this House.

Sir, in moving this resolution as a consequence of the notice that was drawn yesterday by the hon'ble member, the question that has been agitating our minds has been the facilities which members of this House are getting in regard to the Library. Practically speaking, the members have been denied all facilities so far as the use of the Library is concerned. Whenever we go there, we find that a clerk sometimes attends the Library who is not aware of the position of the books or if the books are available, he can neither help the members nor is the catalogue which should be a guide as regards the stock of books or where they are available, of any help to us.

Now, Sir, this question has assumed another kind of importance on account of the fact that I understand that Government propose to hand over, as it has done in respect of all other matters so far as the building is concerned, the control of the Library to the Hon'ble the Speaker of the Lower House. That cuts at the privilege of this House. The Government as I understand, has taken the view that for the purpose of carrying on the legislative work of this province, it is enough and sufficient if only one of the Houses is attended to and its wants are catered for. They have not considered the necessities so far as this House is concerned. They have not given us the bare necessaries which are needed for carrying out the work of the Legislature. Therefore, in fairness to both the Houses of the Legislature, which has to function as two Houses except in one respect—in all other matters they have concurrent jurisdiction—they have to function if Government has to carry on its legislative and other programmes, but they have not given us those rights. Over and above this, the proposal that Government have now made to hand over the control of the Library to the Lower House will further infringe upon our rights. We have drafted

certain rules following the procedure which is observed in certain Dominion Legislatures where there are two Houses like here and where they have considered for the purpose of providing facilities to members, the question of keeping the Library available to members of both the Houses. They have kept the Library under the joint control of both the Houses. Following the same procedure we have also drafted certain rules on that line. For the information of members I may read a few lines from the draft which I have prepared so far as the Library is concerned and this is exactly on lines that have been followed in some other Dominion Legislatures.

These are the rules I have drafted:—

"(1) A proper catalogue of the books belonging to the Library shall be kept by the Librarian in whom the custody and the responsibility thereof shall be vested and who shall be required to report (in duplicate original) to the two Houses through Mr. President and Mr. Speaker at the opening of each annual session, the actual state of the Library.

(2) The Library Committee appointed according to the rules of the House, each House with power to confer with the corresponding committee of the other House, will aid Mr. President and Mr. Speaker with their counsel and advice in carrying out the rules in regard to the Library of the Legislature, and in suggesting further improvements and additions to the collection.

(3) The Library shall be opened—

(*a*) when the Council and the Assembly are in session upon every day, Saturday afternoon and Sundays excepted, between the hours of 11 o'clock in the morning and 6 o'clock in the afternoon and upon every day upon which either House or both the Houses of the Legislature are sitting, until the rising of whichever House is last sitting, and the Librarian shall make the necessary arrangements in regard thereto;

(*b*) during the recess upon every day (Sunday and public holidays excepted) during such hours as may be determined by Mr. President and Mr. Speaker.

(4) Mr. President and Mr. Speaker are empowered to appoint and remove, subject to the concurrence of the Library Committee of each House sitting together, a Librarian, Assistant Librarian and any clerk or messenger who may from time to time be employed in connection with the Library whose salaries shall be fixed by such committee."

Immediately after these rules come into force a Special Committee consisting of the Deputy President and five members to be elected by the Council shall be formed, to act so far as the interests of this House is concerned with regard to the Library of the Legislature and to act as members of the joint committee of both Houses for the management of

the Library. The President and the Speaker shall be members of the joint committee and shall be the Joint Chairmen of the joint committee. The joint committee shall elect its Secretary. The committee shall hold office for one year from the date of its formation or up to the beginning of the next session, whichever date is later.

Therefore, though there are many other important questions regarding the accommodation of the two Houses and the use of the different rooms, we have thought that the question of the Library is of immediate importance and calls for some action to be taken immediately and for that purpose I move that the authorities who are responsible for vesting the Library in the control of either House or both Houses should be moved and asked and requested so that they do not refuse the privileges and the advantages which are necessary for us to discharge our duties properly as members of this House and I therefore submit that this resolution may be accepted unanimously by the House and forwarded to the authorities.

Mr. PRESIDENT: Resolution moved—

"That the Secretary do convey to the authorities concerned that the control and management of the Library of the Legislature should vest in both the Houses of the Legislature and shall be administered by a joint committee of the two Houses consisting of five members of each House and the President and the Speaker, pending the framing and adoption of the rules of procedure of this House."

The Hon'ble Khwaja Sir NAZIMUDDIN: I am very sorry that the hon'ble Deputy President in moving this resolution, has possibly unwittingly given a wrong impression to the members of this House. There is no differentiation in the treatment of members of this House for the use of the Library as between members of the Council and members of the Assembly. Whatever is there, is there equally for both the members of the Assembly and the Council. It is not correct to say that members of the Council are deprived of certain privileges which are enjoyed by members of the Assembly. If there is no proper Librarian, it affects equally the members of the Legislative Assembly as it does the members of the Legislative Council. If there is no proper catalogue, it applies equally to the members of the Legislative Assembly as to the members of the Legislative Council. The appointment of a Librarian and a clerk is pending, and I am sure when that is done, most of these grievances will be removed. As regards joint management of the Library, the resolution has been moved and seconded and I have nothing to say about that. But I do want to remove the wrong impression from the minds of the members of this House that there is any differentiation in the treatment of the members of this House from that of the Legislative Assembly; whatever is there, is there for both. For

the present the Library is under the control of the Speaker. It has always been the idea of Government that the Library should be common to both the Houses and that it should be controlled and managed by a joint committee of both the Houses to be constituted by mutual agreement and arrangement.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: On a point of information, Sir. May I know if there is any proposal to place the Library under the control of the Speaker only?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have already said that so far as Government are concerned, they contemplate that the Library should be managed by a joint committee with the President and the Speaker as Presidents of that joint committee. That is the idea of Government. But at the present time the Library is under the direct control of the Speaker. When we have got the staff and other things ready, the ultimate idea is that the Library should be under joint management. With this end in view there was a conference held at Darjeeling, but unfortunately they could not come to a decision; there was disagreement and it was left over for further negotiation on the subject.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: May I know under whose order the Library is under the control of the Speaker only?

The Hon'ble Khwaja Sir NAZIMUDDIN: The Library is under the control of the Speaker because this building has been allotted to the Assembly and naturally as the Library was there, everything has gone with it to the Speaker. But the idea is, as I have said, that the Library should be jointly managed by a joint committee composed of members of both the Houses.

Mr. HUMAYUN KABIR: May we then understand that the Hon'ble Minister agrees with the resolution which has been moved by this House because that also contemplates that the Library should be managed by a joint committee of both the Houses?

The Hon'ble Khwaja Sir NAZIMUDDIN: My whole object is to remove the wrong impression which must have been created in the minds of the members of this House and to remove misunderstandings. So far as the resolution is concerned, I have got no comments to make at the present time; and I have already stated what the Government idea is on the subject.

Mr. PRESIDENT: The Hon'ble Minister has made it absolutely clear to the House that the present Library is attached to the Legislative Assembly and that Government contemplate to have a joint committee as is proposed here.

The question before the House is that the Secretary do convey to the authorities concerned that the control and management of the Library of the Legislature should vest in both the Houses of the Legislature and shall be administered by a joint committee of the two Houses consisting of five members of each House and the President and the Speaker, pending the framing and adoption of the rules of procedure of this House.

The motion was agreed to.

Supplementary Budget Discussion.

Mr. NARENDRA CHANDRA DATTA: The supplementary budget includes a sum of Rs. 3,42,000 of which only Rs. 98,000 are voted, but with regard to this House the whole amount is charged, because we cannot change even one anna from this. So our criticisms are something like the criticisms in a debating society having no force behind it. It is, therefore, natural that these criticisms are not treated with that amount of respect which we could have expected from the Ministry if we had the power to vote. Of course, we cannot blame them because we are bound by the Act.

It appears that the Gariahat Excise Case has necessitated by its prolongation an amount of Rs. 47,000 mainly for the purpose of payments to lawyers, which item alone is responsible for Rs. 42,000. In this connection I would like to submit that we are always talking of economy, economy in the scale of pay of officers and in every other way. We are always trying to reduce expenditure as much as possible, but the fee to lawyers appears to me to be very excessive because these fees were fixed long, long before when everything was looked at from a different angle of vision. I would earnestly appeal to the Hon'ble Finance Minister and to the Ministry to see their way to scale down the fees of lawyers when there would be great economy in the matter. I do not know what were the charges of Government lawyers in this case, but their fees were exorbitant. This has been admitted by everybody. If Government had entered into a contract with the lawyers that for such and such sums of money they would have to conduct the case through, then probably they could have made some savings. But instead of doing that, they allowed the case to go on in its natural course and following the past precedents and past emoluments, expenditure on account of their fees has been very much exceeded. We have to pay another Rs. 42,000 for this case. We hope this matter will be taken up by the Hon'ble Finance Minister in order to find out if there can

be any economy in the matter of lawyers' fees. This is a matter which is overdue.

Another point on which I would like to speak is the travelling allowance of Ministers. But at the question time the matter has been thoroughly discussed; so I shall not speak much on that point. One thing to which I want to draw the attention of the House is this that a Minister may have the privilege of visiting any part of the country he desires, but he should make it a point that he should not go out to rouse communal passion in the *mufassil*. There should be a clear injunction upon the Ministers that whenever they go out at the expense of the public, they should not join in any communal or political meetings and they should not rouse any communal passion and bitterness. We all wish that there should be communal amity, I do not think there should be any disagreement in this House that Ministers should not be allowed to go out in the *mufassil* and willingly or unwillingly to create an impression in the public mind that they cannot control themselves and that their speeches have led people to believe that they can have communal animosities as much as they like——

The Hon'ble Mr. H. S. SUHRAWARDY: First control your newspapers.

Mr. NARENDRA CHANDRA DATTA: Certainly the newspapers should be controlled, but the Ministers should also be controlled. We have no control over the newspapers, but we have some control over the Ministers. Let the Ministers control the newspapers.

Mr. HUMAYUN KABIR: Sir, I would also open by remarking that there is not really very much scope in our discussion of the supplementary budget, as we have not got the power to vote. I would, therefore, only like to draw the attention of this House and the Hon'ble Minister to the way in which certain items of expenditure have been continually increasing during the last few years. One item, viz., in respect of the excise demand, has already been pointed out by my hon'ble friend who has just sat down. I would give only the actuals in respect of the previous years. In the year 1935-36 they were Rs. 17,88,000, in the year 1936-37 they were Rs. 18,97,000, this year the final budget was Rs. 19,20,000 and now we are asked to provide a further Rs. 47,000 so that this year's budget will ultimately be, if there is no further increase in future, Rs. 19,67,000 which shows a considerable increase even over last year's when the Gariahata case had already been taken up.

Then with regard to the next demand for grant in the list, Grant No. 5, the actuals for 1935-36 were Rs. 18,48,000 and the actuals for 1936-37 were Rs. 19,07,000. The final estimate for this year was Rs. 18,81,000, and now we have a supplementary demand for Rs. 32,000

bringing it to Rs. 19,13,000. Now there is one point here which should be specially noticed. Last year the actuals were Rs. 19,00,000, but that included Rs. 15,000 which was provided for allowances to Sub-Registrars who helped in conducting the elections in the province. This year there is no such special item, and yet there is a considerable increase over the actuals of the last year and the year before. In this connection I would again point out that there is in the explanatory memorandum given here a reference to the appointment of an additional Inspector of Registration Offices. Now this is obviously a new post. It was not contemplated even at the time of framing the budget that such a post was necessary, and we fail to understand what has intervened in the meantime since the framing of the budget to force Government to make an extra appointment like that, particularly in view of the fact that such extra appointment was not required during the days of the election when very great strain was placed upon all branches of the administrative machinery of the Government.

Further, there is the question with regard to the general administration, and here the figures are very very telling indeed. I will draw the attention of the Hon'ble Minister and the House first of all to the general administration expenses of the province. The actuals for 1935-36 were Rs. 1,35,29,000; the actuals for 1936-37 were Rs. 1,40,47,000; the final estimate for 1937-38 was Rs. 1,53,08,000 and it was increased by a special authentication by Rs. 10,000 on account of the items which are charged to the revenue of the province. We then had a supplementary demand for Rs. 8,86,000 and now we have a further supplementary demand for Rs. 1,92,000 more bringing the total for the year to Rs. 1,63,90,000. Therefore, Sir, from Rs. 1,35,00,000, in 1935-36, we have to-day Rs. 1,64,00,000, a clear increase of almost Rs. 30,00,000 in the expenditure under the head "General Administration" of the province in spite of the demand for economy which is made on all sides and to which the Ministry also is generally, I think I am not wrong in saying committed; but there are further features in connection with this. Mr. Dutta pointed out the question of the travelling expenses of the Ministers. Here certain other figures probably will be even interesting. We find from a consideration of the budget of the previous years, that in 1935-36 the actual travelling expenses incurrred by Executive Councillors and Ministers were Rs. 33,000 of which the Ministers were responsible for roughly Rs. 25,000: during 1936-37 the amount incurred for travelling expenses by the Ministers and Executive Councillors was Rs. 34,000. So, we may say roughly Rs. 33,000 were spent by seven Executive Councillors and Ministers in previous years. But this year the final estimates of the budget gave us the figure of Rs. 34,500, and now there is an additional demand for Rs. 25,000 bringing it to considerably more. I admit that there is an increase in the number of Ministers, and therefore there may be to some extent increase in the travelling expenses

also. But I would draw the attention of the Finance Minister if he can justify this inordinate increase in the amount of travelling allowances drawn by the Ministers. I would also in this connection mention the fact which came out during the question time to-day that if the tour programmes of the Ministers were framed systematically so that one particular area is taken up at a time, and there is no occasion for a Minister to visit certain districts in the same area or different subdivisions of the same district on different occasions, the tour expenses of the Ministers can be cut down considerably. Of course there may be exigencies when the Ministers may be forced to go to a particular area, but I am sure the House will always be prepared to consider such exceptional circumstances, and generally the tour programme of the Ministers should be fixed beforehand.

Then, Sir, there are further interesting revelations in these figures which at first sight seem so uninteresting. With regard to "Civil Secretariat charges", we find that the actuals for 1935-36 were Rs. 16,91,000; the actuals for 1936-37 were Rs. 16,88,000 an actual reduction. To-day what is it that we find? The finals were Rs. 17,68,000 and added to that we have an additional demand for Rs. 48,000 bringing it to a total of Rs. 18,16,900. Therefore, since last year there has been an actual increase of about a lakh and a half in the item under the "Secretariat charges" alone. I have not referred to the Secretariat staff of the Governor, because I understand that that is not debatable in this House, and there would be no point in discussing it.

Well, there is one further question in this increase. We are told here that two Special Officers have been appointed in the Finance Department, one to examine the establishment requirements of the Secretariat and the District Offices, and the other to investigate the possibility of further retrenchment. We would like to know what class of officers have been placed in charge of this work and from what grade, and whether the work could not be done by one officer on a lower scale.

There is one other question, that is the question about Revenue Commission which I think one of my friends will probably take up later on. Why should there be an additional demand for Revenue Commission when sufficient money was allotted for it in the previous budget, and as far as we see the Commission has not been established at all?

These are some of the features to which I would draw the attention of the Hon'ble Finance Minister and end my speech with the general remark that when the demand is for reduction in the expenditure all round, there does not seem to be sufficient justification for such great increase in expenditure under certain specific heads which we can regard as merely carrying on the administrative work of the province and not contributing to the nation-developing departments or in any way adding to the wealth or increasing the prosperity of the province. If for the mere purpose of carrying on the work of the

machinery, expenses are continually increased, I am afraid very little will be left for developing the resources of the province."

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, as regards the expenditure on the Gariahata case, as already stated by some hon'ble members, I further beg to bring to the attention of the Hon'ble Finance Minister that in future the Government should be careful in engaging lawyers and should see that the expenditure is not increased for nothing. Because, I hear that an appeal has been filed and the Government will have to provide some more money for the appeal. And then, Sir, it is stated that the proceedings of the Election Tribunal were unusually protracted, and, for that reason, there has been an increase in expenditure. In that case, may I enquire of the Hon'ble Finance Minister why sufficient security was not demanded from the parties when the case was being conducted? And also, Sir, it is my desire and I think it is the general desire of the members of this House, that when we require money for other purposes, as far as possible, economy should be observed in all the departments. So, in future the Government should think twice before spending in matters like those of election cases and other cases.

Mr. NAZIRUDDIN AHMAD: Mr. President, Sir, I do not wish to offer any remarks on the individual items. My other hon'ble friends will deal with them in due course. I wish to confine myself to one or two remarks made in the House regarding the tours of the Hon'ble Ministers. One hon'ble member has made an insinuation that Ministers go on touring with the special object of creating or encouraging communal feelings. There has been a definite and a deliberate insinuation to that effect. I beg most humbly but most emphatically to enter my protest against this kind of insinuation. Another hon'ble member has pointed out that Ministers in the past did not spend much time on tours like the present Ministers. There is, however, a great difference between Ministers under the old constitution and Ministers of to-day who are fully responsible to the Legislature and the people. Ministers who are leaders of political parties to-day are required to be in close touch with the electorate and it is particularly necessary for them frequently to go to the different constituencies to acquaint themselves, first hand, of the exact feelings and requirements of the people.

Mr. HUMAYUN KABIR: At Government expense?

Mr. NAZIRUDDIN AHMAD: Yes—in order to discharge their duties more efficiently and for the benefit of the people. Communal feelings are due mostly to false and malicious propaganda which is persistently being carried on by the press. Leaders who talk

of communalism do not raise any objection to this insidious press propaganda. If communal feeling is an undesirable thing, and if the two communities are to live together in peace and harmony, it is very desirable, I submit, that such insinuations and the poisonous press propaganda should be counteracted effectively and on the spot. I believe that the presence of the Hon'ble Ministers in the constituencies goes a great way towards removing the prejudice against them created by artificial agitation and improving communal relations between the various sections of the people.

Mr. KAMINI KUMAR DUTTA: I know, Sir, that this House have no control over the figures, but certainly we can discuss about the policy underlying the expenditure.

Mr. PRESIDENT: Order, order. In the supplementary budget the general principles are not discussed. It is more with a view to economy that the opinion should be offered. It is not the general budget.

Mr. KAMINI KUMAR DUTTA: I would not discuss the general principles at all, but so far as the principle arises out of the——

Mr. PRESIDENT: No principles are to be discussed. The scope is very much limited in supplementary budgets. General economic questions can only be taken up.

Mr. KAMINI KUMAR DUTTA: I bow down to the ruling of the Chair. As to the Gariahata Excise case it has already been stated that it involved an enormous expenditure of money. The judgment of the case was published only yesterday in the press. It has revealed a deep conspiracy from 1929 up to the year 1935. The public has a right to ask the Government whether the Government would think it necessary to enquire how such a conspiracy was possible. Either it was due to the inefficiency or corruption of the customs officers as laid down in the judgment, or of the excise officers. So the public have every right to ask whether this vast wastage of money is really due to the inefficiency, dishonesty and corruption of the staff.

Then as to another item "Grant No. 5", some of the items have already been included. It appears that payment of bills pending from the preceding year have also been included for the additional grant. It must be observed that the bills are not kept pending for long for payment, and the bills of the preceding year ought to be included in the original grant.

Then as to "General Administration", reference has been made to the travelling allowance of Ministers. I will not refer to the matter in the light in which it has been unfortunately discussed in the House, but certainly the Ministers have to do touring. Touring is required, but at the same time the public has a right to claim that before any tour is undertaken, the Ministers must have a clear and definite programme before them as to the purpose of the touring. The tour must not be for the same object as it was in the time of the bureaucratic rule, i.e., only to have a pageantry show for the purpose of their own. It must be really to enquire into the needs of the people and come in touch with the demands of the people. May not this House enquire, may not the public enquire, when the Ministers were making their tours in the interior of the province, did they enquire into the burning problems of the day, the problem of the release of the political prisoners, and the problem of the inequitable system of the tenancy existing in the country? Did they enquire into these two demands, the demand of the release of political prisoners and the demand of the tenants? If the tours are not undertaken with those objects, then we are exactly in the same stage as we were before the inauguration of the new constitution.

Mr. RANAJIT PAL CHOUDHURY: Even worse.

Mr. KAMINI KUMAR DUTTA: Then it appears that in the case of "Public Health", some additional expenditure was required for tours to Java, Ceylon and Madras. Certainly tours to foreign countries and other provinces are required, but the needs at present in this province are so much that proper attention should be paid first to the problems arising in the province itself. Such being the case, we consider such tours to be pleasure trips, and can well be dispensed with.

Then it appears that some amount has been spent on the head of "Agriculture". It appears that Government decided later on to renew the propaganda about the restriction of the jute cultivation. It is a very important item and it really staggers one to think that Government was hesitating at first, and that they could not make up their minds as to whether they should adopt any propaganda at all in this respect, and at a later stage they had to come to a decision and they did come to the conclusion that some sort of propaganda was required. It only reveals the hesitancy in the minds of the Ministry and the unreality behind their work

Then there is another item about the appointment of officers for the retrenchment. We have been hearing of retrenchment for a long time. There have been Retrenchment Committee and retrenchment enquiries, but no effect has been given to those recommendations. So really the public have every doubt whether there is any utility in the

appointment of these officers unless it be one created for certain particular individuals with some ostensible object.

Mr. HAMIDUL HUQ CHOWDHURY: Mr. President, Sir, in view of the fact that the last budget was a budget in which Government had no time to enunciate their policy or lay down their programme or carry them into effect, I expected that this supplementary budget would reveal that in the short period that has passed, actually something has been done or would be done, and that money would be required for carrying on some public utility works. But so far as that is concerned, Sir, our expectations remain unsatisfied, and this budget is of the same nature as the old departmental administrative budgets. No service is provided for in the budget for the people. It is a budget which is concerned, pure and simple, with the increase in the number of officers; it provides for the payment of increased emoluments to existing officers; and it carries on the old original method of administration.

Now, Sir, taking item by item, I shall presently refer to the demand for grant No. 2, wherein we find that in the Gariahat case Rs. 42,000 has been provided as fees for other than Government Pleaders. I take this figure, Sir, from this point of view: the Hon'ble Minister in charge of the Judicial Department in reply to my question to-day revealed that so far as Mussalmans are concerned, they were paid only five per cent. out of a total sum of Rs. 3,70,000 that Government paid to lawyers by way of fees. I submit, Sir, that it is not the special grievance of Mussalmans alone. As some of the questions would reveal, fees are sometimes paid on account of a spirit of patronage that is all-too-prevalent in the departments concerned. It was brought to the notice of the Lower House only recently that in a certain case in Howrah, a gentleman from Alipore of comparatively junior standing had to be taken there to conduct some Government prosecution. The cost in fees alone amounted to Rs. 12,000 in three cases, all of which ended in acquittal, and it is said that some of the departments were opposed to his appointment. Therefore, Sir, if not the whole amount, at least a large part of it was really spent for patronizing a comparatively junior member of the Bar. That being the case, the case for the Mussalmans getting a share of this patronage cannot be disputed, and Muslim lawyers are entitled to a share of the loaves and fishes. The way in which Government distribute briefs, e.g., in the Gariahat case, requires a thorough overhaul. That case was conducted, without referring to personalities—by a lawyer who was paid excessive fees, although he is a Government servant drawing a certain salary. That cost an amount which is in the neighbourhood of Rs. 57,000 to Rs. 60,000, including the sum which has been provided for in the annual budget. Therefore, Sir, Government can make an earnest effort to reduce the expenditure in Government-conducted cases in which fabulously rich fees are paid to particular lawyers. They should also

try their best to distribute briefs more equitably than they do at present by paying attention to the claims of Muslim lawyers. From the figures that have been furnished by the Hon'ble Minister in charge, we find that about twenty per cent. of the lawyers are on the list of Assistant Public Prosecutors. The work that they get does not come to more than five per cent. This state of affairs is due not to any unfair competition of their brother lawyers but to the fact that the distributing authorities always distribute briefs to their relations or friends by way of patronage.

Now, Sir, the next item in the budget to which I should like to advert is retrenchment. It appears that there are two officers who are working as Special Officers for effecting certain retrenchments. I would suggest, Sir, that the best way to effect retrenchment is to retrench these two officers in the first instance, inasmuch as their reports will not be of much help for the purpose of retrenchment. Further, these two officers, being members of the Indian Civil Service, will be particularly careful not to touch those departments which are manned by members of the Indian Civil Service, and against which the public has got a lot of grievance.

Then, Sir, I come to the Land Revenue Commission. I submit, Sir, that the note that has been furnished is short and cryptic, and it does not give details as to how the money which has been provided for by Government in the annual budget, viz., Rs. 50,000, has been spent. So far as the Revenue Commission's work is concerned, we have not seen anything tangible being done up till now. We do not know at all whether a Special Officer is necessary for doing the spade work which, I submit, could easily be done by departmental officers. And yet Rs. 50,000 has been provided for in the budget for this purpose, and another sum of Rs. 17,000 has been provided for in the supplementary budget; that brings the figure up to Rs. 67,000. We would like the Hon'ble Finance Minister to explain how that amount has been really spent up till now.

Then, Sir, the last item is on the question of jute restriction. This, according to a statement of the Hon'ble Finance Minister, who sat on one of the Provincial Jute Committees, is absolutely useless. We learn that it was decided to renew the propaganda at a total cost of about Rs. 40,000 and further that Rs. 25,000 had been found from savings under other heads, leaving only Rs. 15,000 to be provided for in the supplementary budget. I submit, Sir, that this propaganda is going to lead us nowhere. If it is really intended that that propaganda would induce the cultivators to reduce their acreage under jute, then all I can say is that the effect will be disastrous, because it is the experience of some other countries, where some sort of restriction on a voluntary basis was attempted, that the result was disappointing in the extreme. I can envisage that everyone who has not put his land under jute in any particular area for a number of years will begin to do so in the

hope of reaping benefits which his brother cultivators have done in the past. Therefore, there would be over-production, and the benefit that will be derived in any one year will be lost in the next year, and so on. Therefore, I would submit that the method of voluntary restriction is worse than useless. Sir, this policy was started by the old Government, and I submit that this Government is not bound to follow the policy of the late Government. On the other hand, I find that the Hon'ble Finance Minister recommended, while he was a member of the Jute Enquiry Committee, that the restriction scheme should be made compulsory and enforced as such by certain machinery which left no option to the cultivators themselves but to increase the area according to their own advantage. He is committed to this principle, and he cannot escape from it.

Then, Sir, I turn to the question of travelling allowances of Ministers. I think, Sir, that it is in the interest of administration that a convention should be established that Ministers, while they go on tour, should make a distinction between their political and party tours and their official tours. (Cries of "Hear, hear" from Congress Benches.) This is in the interest of the administration for all time to come, and we ought to establish a convention on these lines. The Ministry that is in power may derive some advantage from the present practice for the time being, but I would ask them what the position would be when they are out of office? What will happen to-morrow, should the Opposition step into their shoes? Therefore, in the interest of all, a convention should be established, and there will then be no opportunity for any one to condemn the Ministers if they go out on tour on public duty and not to push on the cause of their parties. It will not be necessary for the Ministers to go out on tour repeatedly, and there will be no occasion for the members to grudge the Ministers their tours. And there will be no occasion for the members to grudge the Ministers their touring allowances, because that will only increase the efficiency of the administration of the departments under their charge. They should, however, make a distinction between tours for party purposes and tour for administrative purposes. The second objection that I have got does not affect us very much, because this House can only criticise the action of the Ministers but cannot give an effective verdict on it. It appears that the whole of it cannot be charged. True, that under the Government of India Act, 1935, the allowance is charged but certainly the railway fare is not an allowance. It is a matter for the Lower House to decide: It appears as charged and that creates some confusion in my mind.

I can assure the members of the House that, as regards the point of the Ministers encouraging communal feeling when they go on tour, they do not mean what they say. I can assure the House that the Ministers who are being supported by us do not mean to the extent they say and in that I will draw my support from the statement of the

Hon'ble Finance Minister. There is no reason to believe that as a matter of fact any utterance of the Hon'ble Minister has created any ill-feeling among those who really think seriously; but any one who wishes to use it as a cudgel to beat somebody else may do so. As regards producing any effect, I can say that it does nothing of the sort; nor does it harm or injure anybody.

Rai Sahib JATINDRA MOHAN SEN: I find, Sir, from the supplementary estimate that there would be an extra expenditure of Rs. 3,42,000. The information that I want, if that information is permissible, is whether this extra expenditure would be covered by any extra receipts under certain heads or would have to be met from the opening balance or from the savings under certain heads.

The other information that I want is whether there is any necessity for the appointment of an additional Inspector of Registration offices and, if so, when that necessity arose. From my experience of my district, my idea is that the work of the Registration Department has gone down considerably; so I do not think there is any actual necessity for this appointment. I also want to know whether the recent appointments have been made by the Public Service Commission or at the instance of the Minister concerned and whether there was any advertisement before the appointments were made.

With regard to the question of the tour of the Ministers much has been said and I do not want to add anything to what has already been said. The position has been made clear, but one thing to which I want to draw the attention of the House is that there is a feeling in the country that Ministers sometimes had occasion to go collectively in certain places. If for any administrative purpose any Minister has to visit any district or a portion of a district, it does not become apparent why more than one Minister should visit together a particular place and hold a sort of meeting there and discuss many matters foreign to the real administration of the province. For example, it has been brought to my notice that in my district it was expected that more than one Minister were to visit together last month and as a matter of fact requisition was sent to me as Chairman of the District Board for providing a large amount of furniture and other things as it was expected that the Ministers would visit a small village five or six miles away from the headquarters station of Balurghat. We found later on that the visit had to be postponed, but I understand that the Ministers will pay a visit either this month or some time early next month. We would welcome visits of Ministers to our district for administrative reasons but not for demonstrative purposes. The visits of Ministers are of great importance because by doing so they come in contact with the people and have occasion to know the needs of the district. It is, therefore, desirable that the Ministers should visit as many times as necessary for the purpose of coming in contact with people.

The Hon'ble Mr. H. S. SUHRAWARDY: Irrespective of administrative reasons.

Rai Sahib JATINDRA MOHAN SEN: This is all that I have got to say with regard to this matter. As has already been said by many of my hon'ble friends, it is not for us to criticise the budget; but we can only give indication of our ideas so far as the expenditure is concerned.

Mr. NUR AHAMED: I am sorry to say that I cannot congratulate the Hon'ble Finance Minister on the presentation of the supplementary budget. It appears to me that the old ways are being followed and the expenditure is being increased for establishment, principally. I have tried to go through the various items provided in the supplementary budget estimate and I find that there is nothing to congratulate the Hon'ble Finance Minister. The first item that strikes me is expenditure in the Excise Department of a sum of Rs. 42,000. I do not want to say anything about this, because most of the speakers have dealt with it. The only thing that I observe is that there is practically no expenditure for nation-building departments for doing work of public utility, pure and simple——

Mr. PRESIDENT: Order, order. I have drawn the attention of the hon'ble members that it is a supplementary and not a general budget: the general budget will come a week after. Here only questions of economy can be dealt with and not general principles.

Mr. NUR AHAMED: I bow to your ruling. In the supplementary budget I find that there is an item of expenditure of Rs. 10,000 for temporary establishment. May I know from the Hon'ble Finance Minister why there is the necessity of a temporary establishment at this stage and why there is the necessity for the appointment of an additional Inspector of Registration at such a cost? I also find an item of Rs. 12,500 under the head Commissioners": there are no details given regarding it. May I know from the Hon'ble Finance Minister why this item is necessary and why it was not wanted before? Then there is another item under "General Administration" of Rs. 85,000: there is no adequate explanation with regard to this item from which the members of this House can realise the necessity for the same. Then again, we find that the Finance Department entertain an officer on special duty at a cost of Rs. 16,400: may we know what is the special duty and why such officers are appointed at such high cost? There is no adequate explanation given in the supplementary budget for this also. Then there is another sum of Rs. 17,000 under the head "Officers on Special Duty," and there is another item of Rs. 50,000 under the head "Magistrates and Collectors." There is no adequate explanation also as to why this big sum is necessary under this head.

Lastly, my humble submission to this House is that no communal question should be raised by members of this House. There is an impression in this House created by the speech of an hon'ble member that when the Hon'ble Ministers go on tour, they carry on communal propaganda; I deny that charge. I do not think that the Hon'ble Ministers have ever done so. They have, as public officers, gone to the *mufassil* to know the condition of the people and to have a first-hand knowledge of their grievances; they may have sometimes uttered words which might be misunderstood and misconstrued. I do not agree with the remark which has been made by some of my learned friends of this House and I strongly protest against making that remark. I appeal to this House not to do anything which may lend a communal colouring thereto. We are passing through a very critical time and we must all try to bring about communal harmony in this province. We have lived here for many centuries in harmony and that harmony must be maintained if the progress and improvement of the country have to be effected. There should be no mutual bickerings. Our responsible Ministers, I think, cannot do anything which will disturb that harmony.

Rai Sahib INDU BHUSAN SARKER: Mr. President, Sir, I rise to point out the excessive expenditure on the Gariahata Excise Raid Case which has already been discussed by many of my hon'ble friends. I think that Rs. 40,000 is an unusually large sum to be spent on a case like that. Of course, it is a longstanding case, but if proper vigilance and attention were given by the department, probably this case would not have happened and this money wasted. Most probably a huge amount has been spent as fees to the Pleaders, but this has not been shown here. My point is that Government should pay more careful attention to the Co-operative Department also. We find that there have been many defalcations for want of proper supervision. The Co-operative Department is a nation-building department, but we find that auditors——

The Hon'ble Mr. NALINI RANJAN SARKER: How does the Co-operative Department come in here?

Rai Sahib INDU BHUSAN SARKER: However, I think that proper attention should be given to that department.

The Hon'ble Mr. NALINI RANJAN SARKER: That would be on the 21st, not to-day.

Rai Sahib INDU BHUSAN SARKER: It is the duty of Government to see that much money is not spent on criminal cases. I draw

most respectful attention of the Hon'ble Minister to the fact that long-standing cases can be run at a lesser cost if the Pleaders are made to accept lesser or consolidated fee as has been suggested by the hon'ble member Mr. N. C. Datta. If that can be done, Government would be able to save much money.

I would like to know what justification there is for the appointment of an Additional Inspector, four Special Officers, two of them being for the Revenue Department. It is gratifying to know that these two Special Officers have been appointed to enquire into the land revenue system. We hope that we shall be able to gain much from their valuable report.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, if I refer again to Gariahata Excise Raid Case, it is because of the importance of that case. It would appear that the actuals of expenditure in the district charges under the head "Excise" in 1934-35 was Rs. 10,65,000, but in the revised estimate for 1936-37 the district charge was put down at Rs. 12,09,000, a difference of about Rs. 1½ lakhs. This vast increase was largely due to this Gariahata Excise Raid Case. Then again when the budget was presented last August for 1937-38 under district charges for expenditure on head "Excise," a grant of Rs. 11,98,000 was obtained. This sum must have covered a considerable amount of cost of the Gariahata Excise Case. Now we are again faced with another charge of Rs. 47,000. May I enquire from the Hon'ble Finance Minister what was the total sum spent on this unduly protracted case up till now—the case seems to have come to an end only day before yesterday. An appeal is also threatened. As a result of this case, will there be less illicit manufacture of liquor, or less export, import and sale of illicit liquor and of bottling the same and sending them to vendors as genuine imported foreign liquor? This illicit manufacture has resulted in the loss of Rs. 4½ lakhs in Government revenue yearly. Whether there will be less conspiracy of powerful agents and speculators, time alone will show. But that such a case should happen in the heart of the city shows that the Excise Officers were not alive to their duties or alert in preventive action.

On account of want of proper supervision and on account of the laches of the officers of the Excise Department, there has been a great loss of revenue to the Public Exchequer. On the head "Registration" the need of an additional Inspector of Registration offices could and should have been avoided, because it is not at all a necessary expenditure to be undertaken by Government. In my view the work could have been and should have been done by the Sub-Registrars themselves. In place of the landlords' notice-fee, if the purchasers of tenancies are put to the statutory obligation of notifying the landlords of their purchases by registered post and to send a copy of the deed of transfer not only to the landlords but also to co-sharer tenants, then these

tenants can be saved a lot of expense; at the same time the charges for landlords' fee establishment in rural offices and the Bengal Tenancy Act offices in the headquarters can be easily saved; but so long as the Bengal Tenancy Act remains as it is, there can be no check on increase in the landlords' fee establishment charges which are not inconsiderable. I would now refer to the supplementary estimates on the "General Administration" of Rs. 1,92,000. In this connection a supplementary estimate has been made of Rs. 25,000 as travelling allowances for the Hon'ble Ministers. I would not have referred to the travelling expenses of the Ministers to-day but for the fact that my friends Mr. Naziruddin Ahmad and Mr. Nur Ahamed have taken a strong exception to certain observations which were made by another friend of mine Mr. Narendra Chandra Datta. But, Sir, it is no good hiding a fact which may do immense mischief to the province as a whole. It is better to recognise a house when it is burning; it is better to have this matter thoroughly discussed in this House, so that in future no such thing may happen. And it is with this intention that Mr. Datta referred to this matter. In this connection my observation is that tours by Ministers should be sparingly undertaken. In the case of Executive Councillors, before the present form of Government came into force, there was some justification for them to go out into the *mufassil* and undertake tours, because they were, more or less, strangers to the land, but that is not so in the case of the Ministers. The Ministers are popular representatives of the people and they know very well the wants of the people and need not in that view of the case undertake expensive tours. Tours, therefore, by the Ministers should be sparingly undertaken, and when they go on tour, that ought to be beneficial to the people committed to their charge. As a matter of fact, in our part of the country, so far as our experience goes, the result of the tours of some of the Ministers has been exasperation of feelings between Hindus and Muhammadans. It is no use, Sir, hiding this patent fact. May I enquire if it is a fact that in the course of their tours some of the Ministers actually appealed to the Moslem audience to the effect that they should go in large numbers and join the Muslim League. Is it a fact that some of the Ministers in their speeches in the *mufassil* stated that the sporting eleven forming the ministry under the capable leadership of a Muslim captain has scored no less than fifty-two goals—not from the corner but from the centre—over the heads of the Congress, and inviting the Muhammadans——

Mr. PRESIDENT: Order, order, you are straying far away from the point.

Mr. LALIT CHANDRA DAS: As a matter of fact I may point out that as a result of some of the speeches delivered by some of the Ministers in the *mufassil*——

Mr. PRESIDENT: Order, order. I would have called you to order earlier, but I allowed you to go on, thinking that you would finish with the tours of the Ministers soon. The point at issue is not the speeches of the Ministers while on their tours. You have said enough about the tours already.

Mr. LALIT CHANDRA DAS: Very well, Sir. I may now refer to another item—in respect of expenditure that was undertaken on account of a Special Election Tribunal. It refers to an item of Rs. 16,000 for expenses in connection with the proceedings of the Election Tribunal; I believe this charge is due to the unconscionably long time which was taken to finish the case of my friend Mr. Habibur Rahman Choudhury *versus* Nawab Sir K. G. M. Faroqui. My remark in this connection is that so far as the election cases are concerned, we wish that the cases should not be so long drawn out and such huge expenditure undertaken for them.

We are glad to know that two Special Officers have been appointed in the Finance Department—one to examine establishment requirements in the Secretariat—and the other to investigate into the possibility of further retrenchments. Yet, Sir, many new offices have been created by the Ministry as soon as they assumed the reins of Government. They should have waited for the report of their own officers. The retrenchments that they may propose will be finally counterbalanced by the additional cost of the new appointments, all of which will remain undisturbed.

Lastly, Sir, I would refer to another matter and that is with regard to Civil Works. An establishment of Civil Works for 1937-38 which soaks up Rs. 12,000 (charged) and Rs. 57,400 (voted) for Chittagong Division and has not the foresight to ask the Finance Department to provide for urgent repair works and does work at Buildings and Communications of the value roughly of Rs. 2½ lakhs yearly, is not worth the candle it burns and should be abolished, and Chittagong Division should be amalgamated for Civil Works with the neighbouring division both for the sake of efficiency as well as of economy.

Maulana MUHAMMAD AKRAM KHAN addressed the House in Bengali. The following is the English translation of his speech:—

Mr. President, Sir, as I entered the Council House I heard Naren Babu say that there was some such thing as communal terror (?). He has expressed concern that the Ministers may not be a cause of that terror while they go out in *mufassil*. I want to point out that this thing should have a definition or description. I have yet to make out what the definition of the thing called communalism in Bengal is. I hear *bhadralogs* say that it amounts to communalism if a Moslem even

says his *nemaz* with his face towards the west. If he wears his cloth after the fashion of his own people, he is dubbed communal. If consistent with his self-respect, a Moslem gives publicity to matters concerning his culture and rights, it is called communalism. If one will only sit idle without uttering a single word about what the right or duty of a Moslem is, one may in that case have some chance of escape from so-called communalism. As the question of communalism has been raised by the hon'ble member, the matter should be cleared up. Just as people have a notion about a ghost, some taking it to be a horrible-looking object with two horns and a big tail, similarly, some people have got an imaginary idea in their head about communalism, and they are so much obsessed by this imaginary idea that they take many things to be communal. If the Hon'ble President permits me, I may say that although everybody knows about the vigorous propaganda carried on in the name of Congress in seven provinces, nobody finds in it any cause of offence. But, strangely enough, if a Moslem Minister makes any mention of the Moslem League, it will simply spell disaster! This appears to me to be entirely opposed to reason and all forms of consistency. If only our allowances as members of this House remain intact, what does it matter whether the allowances of Ministers are rejected or not? I am reminded of a story of my boyhood days. In those days Panchanan used to write in "Bangavasi". Panchanan was the pseudonym of Babu Indra Nath Banarji of Burdwan. Wrote Panchanan:—"A school for the critics was opened. The teacher took his seat and the disciples sat round him. The question of the Governor's tour was raised".

Mr. PRESIDENT: Please be brief.

Maulana MUHAMMAD AKRAM KHAN: Yes, I shall be brief. "How is the Governor to be abused if he goes out on tour, and how if he does not?" asked the teacher. "If he goes out, the comment should be in such a strain as that public funds are thus being wasted on pleasure trips, etc., etc. If he does not, it should be that he spends all his time inside the palace and pays no attention whatever to the manner of life led by the humblest subject, etc., etc." Hence there is no escape from criticism.

Mr. RANAJIT PAL CHOUDHURY: May we know, Sir, whether the speaker is making a budget speech or a communal speech?

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, first of all, I want to remove some misapprehension in the minds of the members of this House that we do not pay much heed to their suggestions and recommendations. That is not a fact. In my last budget speech I made it absolutely clear that though the members of this House have

no voting power on demands for grant, we give our utmost consideration to their suggestions because we consider that they belong to a House which is called the House of Elders, and because we expect that by their superior knowledge and better experience we shall be much benefited, and as a proof of that statement when I come to present the next year's budget estimate, I shall be able to show the members of the House that I have taken note of everything they said on the last occasion. Every suggestion made by you is taken into serious consideration, but unfortunately it is not——

A member: Practicable!

The Hon'ble Mr. NALINI RANJAN SARKER: I do not say practicable, but we are unable to accept your recommendations. I will just give one example. Some of the members have criticised why Rs. 10,000 has been spent on the Election Tribunal, why it was not cut down. When an Election Tribunal is required, it is formed by the Governor. After that Government have no power to restrain its activities. It is well known that if the High Court want to be more earnest about doing justice, then Government have no power to restrain them. I am giving you only one example that it is not possible to accept every recommendation by every member, but that does not mean that we do not show proper respect to the members of this House.

Sir, much has been said about the Gariahata Excise Raid Case. I am here to ask for a supplementary demand because in my last budget I anticipated that the case would be finished by May, 1937, but unfortunately that was not so. When a case has been started, we have got to go up to the last and there is no way of avoiding it. So far as the lawyers' fees are concerned, my hon'ble friend Mr. Hamidul Huq Chowdhury has raised various questions about patronage, high fees and things like that. I am sorry, I do not know the details of these things, but the suggestions made by various hon'ble members to curtail legal fees in future will certainly receive our most serious consideration. I would submit to the members of this House that if lawyers' fees are not reduced in general, I do not think that in the case of Government alone it will be possible to make any reduction. Government like an ordinary client want to win a case and naturally they will be anxious to go to the best Counsel. If the best Counsel charges his market fee, it is very difficult for Government to bargain with him and reduce his fee. But at the same time I can assure you that as regards this method of appointing lawyers and settling their fees, if we can devise any means without loss of efficiency to curtail expenditure, we shall certainly do it. My friend Mr. Lalit Chandra Das has asked about the total expenditure. Up till now we have incurred an expenditure of Rs. 12,699 in 1935-36, Rs. 84,000 in 1936-37 and Rs. 77,000 in

1937-38. If I am not disclosing any budget secret, I can say that I will be able to show to you that because of this case, there has been an enormous improvement in our excise revenue. We are also trying to recover a portion of the cost at least from the Government of India.

A member: What about the appointment of Muhammadan lawyers?

The Hon'ble Mr. NALINI RANJAN SARKER: I am in charge of Finance, I do not distribute patronage, for which you may approach the departmental Minister.

After the last year's budget was prepared, a proposal came from the Registration Department that the appointment of an officer was urgently necessary. So we had to accept that. It was not a new appointment made on the recommendation of the Public Service Commission. A departmental man was given the duty of inspecting the Registration offices.

Then coming to the "General Administration," much has been said about the travelling allowance of the Ministers. There are some hon'ble members who are of opinion that the Ministers should undertake extensive tours; there are others who do not like that Ministers should go out on tour.

A member: Everybody likes that they should go out but not for propaganda.

The Hon'ble Mr. NALINI RANJAN SARKER: Yes, like ordinary members the Ministers are entitled to go out on propaganda tour. I agree with Mr. Hamidul Huq Chowdhury that tours at public expense should not be undertaken in party interest, but certainly a Minister is entitled to undertake a tour to explain Governmental activities and things like that. Then some of the members have suggested that while Ministers go out on tour, they must control their tongue and say things which are approved by this House. I cannot accept that theory. If members of this House, who also come here at public expense, can have freedom of speech and can say things as they like, I think the Ministers also should have the same freedom of speech when they are out on tour.

A member: Here the President controls us but who is going to control the Ministers?

The Hon'ble Mr. NALINI RANJAN SARKER: Public opinion controls them. When a Minister goes out on tour, thousands and even lakhs of men come to receive them.

A member: With black flags!

The Hon'ble Mr. NALINI RANJAN SARKER: I admit that there are black flags also, but their number is too small, and the fact is that the Ministers are occupying their chairs in spite of those who are here and there trying to show black flags.

Then, Sir, about the appointment of the Retrenchment Officer, the Retrenchment Officer is a very experienced man, Mr. Blandy, an experienced member of the Indian Civil Service. In the last Assembly session I gave an assurance and I think you also accepted that suggestion that we should appoint a Special Officer to go through the recommendations of the Swan Committee as also for devising ways and means for further retrenchment. He is doing his work, and probably in about a week's time, I shall be able to circulate to you a White Paper about his examination of the recommendations of the Swan Committee. Another officer is Mr. Chapman who was requisitioned from the Government of India for four or five months to investigate into the Secretariat establishment and the establishment of the Districts and Subdivisional offices which was being pressed for the last few years.

Then my friend Mr. Hamidul Huq Chowdhury asked me what amount was spent from the Revenue Commission allotment. I say not a farthing; because the Revenue Commission has not yet been appointed nor has it been announced, but a Special Officer is working in the department after his retirement to prepare cases to be submitted to the Revenue Commission. It is the extra expenses on account of his salary that have been included here.

A member: What is the total amount?

The Hon'ble Mr. NALINI RANJAN SARKER: The total amount is Rs. 50,000.

Mr. HAMIDUL HUQ CHOWDHURY: Then that Rs. 50,000 has not been spent?

The Hon'ble Mr. NALINI RANJAN SARKER: Not a farthing has been spent.

Then about the "Public Health", Mr. Lalit Chandra Das has raised a question about the travelling expenses of the Director of Public Health to Java, Ceylon and Madras. He was deputed there to study the schemes formulated for the prevention of malaria and other public health schemes, and I think he has acquired a valuable experience after going through the activities in those places.

About the jute propaganda my friend has said something as coming from me which I do not think I have ever said. I was always in favour of voluntary restriction and said that if voluntary restriction fails, then compulsory restriction should be adopted. The Government is examining the scheme of compulsory restriction of jute, but it will take some time to create machineries to pass laws and things like that. In the meantime if this year the cultivators are not cautioned, there is bound to be much overproduction to the detriment of the interests of the raiyats. That is why Government have decided to carry on the propaganda. Mr. Hamidul Huq Chowdhury has said that it has not done any good to the tenants, but the Government's experience is otherwise. I do not say it has done much, but it has done something which is much more than Rs. 40,000 which will be spent for this propaganda.

As regards the payment of old bills of the Registration offices, these were the dues of the old Government in 1935-36 and these bills were presented immediately after the budget was prepared. So, for that amount a supplementary grant has to be made.

I do not think, Sir, there is any other important point which I have left out.

Adjournment.

The Council then adjourned till 3-30 p.m. on Friday, the 18th February.

Members absent.

The following members were absent from the meeting held on the 15th February, 1938:—

(1) Banerjee, Rai Bahadur Keshab Chandra.

(2) Esmail, Khwaja Muhammad.

(3) Khan, Khan Bahadur Muhammad Asaf.

(4) Lamb, Mr. T.

(5) Mookerji, Dr. Radha Kumud.

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THE BENGAL LEGISLATIVE COUNCIL DEBATE.

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 18th February, 1938, at 3-30 p.m. being the eleventh day of the first session, pursuant to section 62(2) (*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

The Retirement of Teachers in Government Aided Schools.

158. Mr. NARENDRA CHANDRA DATTA: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether there are any rules for the retirement of teachers in Government aided schools?

(*b*) Is it a fact that the rules for retirement provide that the teachers of aided schools are to retire on their completing the fifty-fifth year of age and that in special cases extension may be allowed?

(*c*) Is it a fact that such extensions are allowed by Inspectors of Schools without the consent of the School Committee?

(*d*) If so, does the Hon'ble Minister consider the desirability of making the consent of the School Committee a condition precedent before any such extension is allowed by the Inspectors of Schools?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Minister in charge of the Education Department): (*a*) No.

(*b*) to (*d*) Do not arise.

The Deposit of the Funds of Aided Schools.

159. Mr. NARENDRA CHANDRA DATTA: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if he will consider the desirability of permitting the School Committees of aided schools to deposit their own funds and provident funds with

Scheduled Banks in the same way as they are permitted to deposit such funds with Co-operative Banks?

(*b*) If not, will the Hon'ble Minister be pleased to state the reasons for such refusal?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Minister in charge of the Education Department): So far as deposit of school funds other than provident funds are concerned, there is no bar under the rules to depositing the surplus funds in banks other than the Postal Savings Bank, with the approval of Inspectors or Inspectresses. So far as deposit of provident fund money is concerned, the reply is in the negative because it is not considered desirable to deposit such money in other banks.

Mr. NARENDRA CHANDRA DATTA: My question was with regard to scheduled banks only. Will the Hon'ble Minister be good enough to state why the answer relates to banks in general and not to scheduled banks in particular.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I have nothing further to add to what is stated in the answer. If any more information is required, I would ask for notice.

Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister be pleased to state why the school funds are to be deposited with the approval of the Inspectors and Inspectresses, and why it cannot be left to the School Committees?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I would ask for notice.

Mr. NARENDRA CHANDRA DATTA: On a point of information, Sir. It is very unpleasant that whenever a question put to the Chief Minister, especially at this session, we find that he does not come to answer it; so supplementary questions are not properly answered.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I am extremely sorry, Sir, but we have tried to be of some service to this House as well. It is only in exceptional circumstances that it is not possible for the Chief Minister to be present. The question has been duly answered; if any further information is necessary, it will be supplied on due notice.

The Hon'ble Mr. NALINI RANJAN SARKER: With regard to the complaint of Mr. Datta, I may inform the House that the daughter of the Chief Minister has been very ill for the last fortnight or so; that is why he cannot attend either the Assembly or the Council regularly and Mr. Mullick has been entrusted to answer supplementary questions on his behalf.

Barasat Basirhat Light Railway.

160. Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state—

(*a*) whether it is a fact that the Barasat Basirhat Light Railway runs alongside the Taki Road, which is the only arterial road to connect Calcutta with Barasat, Basirhat and Satkhira subdivision;

(*b*) whether it is a fact that there is a contract between Messrs. Martin & Co., the Managing Agents of the Railway, and the District Board, 24-Parganas, regarding the liability of the District Board to compensate the loss of the Railway Company in working the said line;

(*c*) whether it is a fact that the District Board, 24-Parganas, has been paying compensation to Messrs. Martin & Co. for the last few years;

(*d*) whether it is a fact that the District Board, 24-Parganas, has paid compensation amounting to Rs. 36,000 to Messrs. Martin & Co. in the last year;

(*e*) whether it is a fact that the Chairman, District Board, 24-Parganas, is an *ex-officio* Director of Messrs. Martin & Co.;

(*f*) whether it is a fact that a large number of private cars, taxis, lorries and motor buses usually ply on this road;

(*g*) whether it is a fact that the District Board, 24-Parganas, occasionally, on the pretext of repairs completely obstructs the public thoroughfare so as to put a stop to the running of private cars, omnibuses, lorries, carts and other vehicles to the great inconvenience and annoyance to the people of the Barasat and Basirhat subdivisions of district 24-Parganas and Satkhira subdivision in the district of Khulna;

(*h*) whether it is a fact that there is a permanent motor bus route on this road from Belgachia to Itindaghat;

(*i*) whether the Department of Public Works will take over the road from the District Board and manage the same; and

(*j*) whether the Provincial Road Board will in view of the heavy motor traffic on the road take charge of the same?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Kasimbazar): (*a*) and (*b*) Yes.

(*c*) Yes, except during the year 1935-36, for which the District Board will receive Rs. 8,386-4-9 from the Railway Company.

(*d*) The Company has claimed Rs. 38,000 from the District Board, but payment has not yet been made.

(*e*) and (*f*) Yes.

(*g*) The road is completely closed to all traffic when thorough repairs are made—as was done from 1st November, 1937, to the 31st January, 1938.

(*h*) Yes.

(*i*) No.

(*j*) No, but there is a tentative scheme for a Trunk Road from Calcutta to Barisal, viz., Barasat, Basirhat, Satkhira and Khulna. If that scheme materialises, this proposal will be considered at the time.

Mr. RANAJIT PAL CHOUDHURY: Arising out of (*d*), will the Hon'ble Minister be pleased to state whether, in view of the drain on the funds of the District Board of 24-Parganas, Government are willing to compensate the Company from the Provincial Road Board Fund?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar: Government cannot do so.

Dharung Khal.

161. Mr. NUR AHAMED: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state whether the "Dharung *Khal*" in the Faticksery thana of Chittagong district has caused immense suffering owing to the silting up of the same?.

(*b*) Will the Hon'ble Minister be pleased to state whether it is a fact that in the later part of the year 1937 a deputation of the leading people within the jurisdiction of that thana waited upon the Divisional Commissioner of Chittagong and urged the necessity of immediate re-excavation of the said *khal*?

(*c*) Will the Hon'ble Minister be pleased to state whether the Commissioner ordered the preparation of a suitable scheme for the re-excavation of the *khal*?

(*d*) If so, will the Hon'ble Minister be pleased to state whether he proposes to take up the work of the re-excavation of the *khal* at an early date?

(*e*) If not, why not?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar: (*a*) and (*b*) Yes.

(*c*) to (*e*) The proposal is under investigation.

Savings recommended by the Retrenchment Committees.

162. Mr. HAMIDUL HUQ CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Finance Department be pleased to lay on the table a statement showing the amount recommended by the two Retrenchment Committees appointed by the Government to be saved by retrenchment and the actual saving by the Government on the said recommendation?

(*b*) Will the Hon'ble Minister be pleased to state what steps are being taken for further retrenching and reorganising the services with a view to decreasing the cost of administration?

MINISTER in charge of the FINANCE DEPARTMENT (the Hon'ble Mr. Nalini Ranjan Sarker): (*a*) The total of the savings recommended by the Retrenchment Committee of 1923 was roundly Rs. 1,65,10,000. The total of the savings effected by Government up to the year 1925-26 was calculated to be Rs. 32,54,000. As regards the recommendations of the second Retrenchment Committee of 1932 and the action taken thereon, I will ask the hon'ble member to await full statements on the subject which I propose to circulate to all members later in the session.

(*b*) Government have reviewed the recommendations of the last Retrenchment Committee with results which will be shown in the statements already mentioned, and an officer who has been placed on special duty for the purpose is engaged in investigating all possibilities of reducing the cost of the administration including the cost of the services.

Dr. RADHA KUMUD MOOKERJI: Will the Hon'ble Minister be pleased to state what was the total amount that the Swan Committee had recommended for retrenchment? We do not want details, just as another Committee recommended a total reduction of Rs. 1,65,00,000, we want to know what was the total amount of retrenchment recommended by the Swan Committee.

The Hon'ble Mr. NALINI RANJAN SARKER: About Rs. 1,84,00,000.

Fee for Government Services.

163. Mr. HUMAYUN KABIR (on behalf of Mr. Hamidul Huq Chowdhury): Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether it is a fact that a fee of Rs. 5 in some cases and Rs. 10 in others are required to be paid by the candidates for Government services;

(*b*) if so, whether the Hon'ble Minister is aware that such a rule causes extreme hardship to the unemployed; and

(*c*) whether the Hon'ble Minister considers the desirability of abolishing such an imposition on the unemployed in Bengal?

The Hon'ble Mr. NALINI RANJAN SARKER (on behalf of the Minister in charge of the Home Department): (*a*) Yes.

(*b*) and (*c*) No.

Mr. LALIT CHANDRA DAS: With reference to answer (*c*) will the Hon'ble Minister be pleased to give the reasons why the Government consider it desirable that such an imposition on the unemployed in Bengal should not be abolished?

The Hon'ble Mr. NALINI RANJAN SARKER: To avoid the multiplication of applications.

Rai SATIS CHANDRA MUKHERJI Bahadur: Will the Hon'ble Minister be pleased to state if there are any rules empowering Government to demand these fees from the examinees?

The Hon'ble Mr. NALINI RANJAN SARKER: I hope there are rules.

Short-notice Question.

324. Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state the reasons which led him to accept the proposal for the appointment of a Committee to consider the general reduction of rent payable by tenants in zemindaries in Bengal?

(*b*) Was the decision to appoint such a Committee based on actual facts and incidents?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Minister be pleased to state them?

(*d*) Is the Hon'ble Minister aware that the acceptance by the Government of the said proposal has spread alarm and disaffection in the ranks of land-holders?

(*e*) Is the Hon'ble Minister aware that land-holders are experiencing great difficulty in realising rent? If so, what steps does he propose to take to remedy the evil?

(*f*) Is the Hon'ble Minister considering the desirability of giving specific instructions to the proposed Committee, if and when formed, to make proper investigations in connection therewith and suggest effective remedies in respect thereof?

(*g*) Is the Hon'ble Minister considering the desirability of suspending for a period of ten years all the provisions of the Tenancy Act relating to reduction of rent in view of the fact that in the Tenancy (Amendment) Bill, 1937, as passed by the Bengal Legislative Assembly, all provisions of said Act relating to enhancement of rent have been suspended for a similar period?

(*h*) Will the Hon'ble Minister give this House an opportunity to discuss the desirability or otherwise of forming such a Committee as has been proposed and take into his confidence the members of this House in deciding the personnels of the Committee and the terms of reference for its guidance, if and when it is formed?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bejoy Prasad Singh Roy): (*a*) In accordance with the terms of the resolution, the Committee will be appointed, not to consider the general reduction of rent but to consider ways and means for the reduction of rent. Government agreed to accept the Committee in the hope that it would be able to suggest a suitable means for reduction of rent in those areas and cases where rents are high.

(*b*) No.

(*c*) Does not arise.

(*d*) Government have no definite information, but it is only natural that the proposal may not be welcome to landlords.

(*e*) Yes, in some areas Government are doing their best to counteract all mischievous propaganda and to remove all misapprehensions which might encourage tenants to withhold their rents: (*vide* Revenue Department, Land Revenue Branch, Communique, dated the 17th December 1937—English and Bengalee copies of which are placed on the Library table).

(*f*) This point has not yet been examined.

(*g*) No.

(*h*) The resolution has been passed by the Assembly and accepted by Government. Government do not intend either to initiate discussion on this matter in the Legislative Council or to discourage any hon'ble member from raising the question in the House, of his own motion.

With regard to the personnel of the Committee, and the terms of reference, Government must use their own discretion.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Is the Hon'ble Minister considering the desirability of forming a mixed Committee composed of members of this House and of the Assembly?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not think so; Government must go by the terms of the resolution.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Will the Hon'ble Minister be pleased to state if it is impossible, having regard to the terms of the resolution, that the Committee could not consist of members of this House as well as of the Assembly?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is not impossible.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Will the Hon'ble Minister be pleased to state whether Government will try to include members of this House in that Committee when it is formed?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Certainly; when the Committee is formed, Government will give due consideration to the request of the Maharaja.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Thank you.

Budget Speech.

The Hon'ble Mr. NALINI RANJAN SARKER: Mr. President, Sir, it is my proud privilege and pleasurable duty to present to this House the budget estimate for the year 1938-39 and I am very happy that I have this opportunity for the second time.

So far as the financial implications of the current year's revised estimates and the budgetary estimates for the ensuing year, 1938-39,

are concerned, I have endeavoured to put the position as clearly as possible in my statement to the lower House. I now crave the indulgence of the House to be permitted to circulate copies of that statement for the perusal of the hon'ble members. I thought it would be convenient if such procedure is adopted. I do not, therefore, think that it will be necessary for me to go over the same ground again. I do this not because I have any desire to shirk my duty and certainly not because I am in any way forgetful of the privileges of this House, but merely because I wish to spare the hon'ble members the boredom of reiteration. I hope the hon'ble members will regard my action in no other light but that of their convenience.

Briefly, however, I should like to give you a bird's eye view of the financial position.

For the year 1936-37, for which the account has been closed, we were apprehending, a year ago, a deficit of about Rs. 45 lakhs. Had this deficit occurred, it would have had to be met by a loan but fortunately our apprehension proved groundless and we are able to congratulate ourselves on closing the year on the right side of the account. This enabled us to embark on the new era of provincial autonomy which commenced on the 1st April, 1937, without the burden of debt and to start with a clean slate.

In regard to the working of the current year 1937-38, i.e., the first year of the new regime——

Dr. RADHA KUMUD MOOKERJI: On a point of privilege, Sir. I want to know whether there is any member of the C. I. D. in our midst.

Mr. PRESIDENT: There cannot be any C. I. D. officer in this House.

Dr. RADHA KUMUD MOOKERJI: My information is that there is one.

Mr. PRESIDENT: Mr. Secretary, have you allowed any C. I. D. officer to come in?

Mr. SECRETARY: No, Sir, I have not done so.

Khan Sahib ABDUL HAMID CHOWDHURY: Most probably Dr. Mookerji is referring to the Reporters.

Mr. PRESIDENT: Well, the Reporters are not C. I. D. officers, so there are no C. I. D. men here. Will the Hon'ble Mr. Sarker proceed with his speech?

The Hon'ble Mr. NALINI RANJAN SARKER: The revised estimates place the closing balance at Rs. 1 crore 91 lakhs, i.e., Rs. 53 lakhs more than what was estimated at the time of budgeting for the current year. This excludes three items totalling Rs. 1 crore 5 lakhs which represent our investment in Government securities and treasury bills.

In the budget estimates for the ensuing year, i.e, 1938-39, we place the total revenue at Rs. 13 crores 13 lakhs and the expenditure at Rs. 13 crores 24 lakhs. That is, we budget for a deficit of about Rs. 11 lakhs on revenue account which will be met from the closing balance of the current year, and we expect to close the year 1938-39 with a balance of Rs. 1 crore 75 lakhs, excluding the investments to which I have just referred, or including these investments, a balance of Rs. 2 crores 80 lakhs.

The expenditure in the ensuing year includes new expenditure of about a crore of rupees, the main increase being under the following heads: Education—Rs. 20 lakhs, Public Health—Rs. 14 lakhs, Medical—Rs. 11 lakhs, Relief of Rural Indebtedness—Rs. 12 lakhs, Agricultural and Industrial Development—Rs. 13 lakhs and Irrigation —Rs. 7 lakhs—a wide distribution.

As the full implications of the closing balance, and also of the revenue and expenditure, are to be found in the printed statement circulated to hon'ble members, I do not want to take up more of your time by dilating any further on these points. I may, however, be permitted to make a few general observations.

It is true that this House is not called upon to vote on the budget, and for that reason it may be thought by some that this House is not required to feel the same sense of responsibility towards the budget as the Lower House. This is not a view that I take of the situation, for as I emphasised on the occasion when I presented the supplementary budget, it never is and never can be the intention to treat the views and suggestions of this House lightly. I myself am not one who is willing to hear reason only when compelled to do so by the power of the vote, and I can assure the hon'ble members of this House that their views and suggestions will be regarded with the greatest attention and respect. It must be remembered that this is a House of Elders, of people with special knowledge and experience, whose opinion can be of very considerable assistance in guiding us in our actions. That we are sincere in this attitude may be deduced from that fact that, while there is no provision under the constitution as to when the budget should be presented to this House (which would have allowed us to defer the presentation to a later date), we have, as on the last occasion, adopted the convention of presenting the budget in this House before the voting of grants in the other House. We do so because we sincerely

believe that we shall be able to profit by your wisdom and wise counsels; for, although the budget may not be voted upon in this House, the views expressed by the hon'ble members here may well be expected to be on a truly elevated plane and when of a really constructive nature, they may be depended upon to influence greatly the opinions of members in the other House. I value the opinion of this House of Elders too highly to pursue any slip-shod method on the floor of this House. I believe that as a result of the sober counsel of this House, if there is anything which may be deemed hasty and exuberant, it will be toned down and rounded off.

The surplus, disclosed in the revised estimates for the current year, we must regard as extremely satisfactory; and there is a wide feeling that this satisfactory position is due to the favourable treatment afforded to Bengal by the Government of India under the Niemeyer Settlement. Undoubtedly, this has served to restore our condition partially and it can be said that the Niemeyer Award has to some extent righted the grave injustice done to Bengal under the Meston Settlement. But, on a proper assessment this province has a legitimate claim to a larger share than it has received. In truth, the restoration of Bengal to a position of financial solvency is due in a great measure to our predecessors in office, under the able guidance of our late Governor, Sir John Anderson. His services to the cause of Bengal will be long remembered and I can honestly and sincerely say that he did a great deal that has been to the distinct advantage of this province. It was during his tenure that the Government recognised for the first time that the Government had a responsibility in the matter of economic uplift of the masses. The maintenance of law and order was before that the primary concern of the Government. I do not want to prolong this digression, and this is not the occasion for me to catalogue the achievements of the previous Government, but I do wish it to be known that it was Sir John Anderson's Government which laid the foundations of many things in the economic field on which we are now able to build.

Apart from the advantage we have gained under the Niemeyer Settlement, we are indebted to the previous Government for many other measures that have contributed to our comparatively easier financial position to-day. They effected a ruthless retrenchment in many directions, particularly in the scales of salary of the provincial services, and they imposed additional taxations—two leads, which some of the other provinces have since been following. In undertaking large ameliorative schemes for the province, such as making primary education compulsory and free, developing big irrigation works and improving waterways, they had the foresight to create separate resources for the financing of these objects, thereby relieving the ordinary revenues of the province of this burden in order that

there may be more money available for utilisation in other measures of improvement.

For all this we are grateful. It gives us an encouraging start. If we conserve our resources and proceed with caution, our financial position is such that we shall be able to lay the foundations of a great effort at national reconstruction—foundations, on which we may build, in years to come, a vast and glorious structure. It is difficult enough to devise and give practical shape to such schemes as we have in contemplation or operation, but our task would have been doubly difficult had we been obliged, at the very start, to seek and consider financial resources at the same time. However, we have this benefit, and for the further development and accomplishment of our objects, money will be necessary but there is no reason why we should not be able to extend our resources as time goes on and occasion demands.

We have endeavoured to the best of our ability to utilise the increased resources at our disposal in fostering the development of the beneficent departments, while under our regime expenditure on routine administration has been to some extent arrested.

Thus in comparison with the actuals of expenditure for 1936-37, the revised estimate for the current year shows a decrease of Rs. 1½ lakhs under "Land Revenue," half a lakh under "Jails" and Rs. 4 lakhs under "Police." On the other hand, the major part of the increase in expenditure, not earmarked for other purposes, has been devoted to recovery activities. Thus out of a total increase of Rs. 92 lakhs in expenditure in the revised estimate for the current year, as compared with the actuals of 1936-37, Rs. 28 lakhs are due to new instruments of service created by the new constitution, namely, the enlargement of legislative bodies, the appointment of a Public Service Commission and interest on State Provident Funds. Then again Rs. 5 lakhs are due to the growth in pensionary charges and Rs. 3 lakhs to the statutory grant for the new Howrah Bridge, both being obligatory items of expenditure. Out of the balance of Rs. 56 lakhs, more than Rs. 39 lakhs have been utilised on beneficent departments such as Education, Public Health, Irrigation, Agriculture and Industries; in other words, over 70 per cent. of the additional resources have been utilised on constructive activities.

The same endeavour has permeated the budget for 1938-39. The increase in expenditure next year over the revised estimate for the current year is Rs. 1 crore and 17½ lakhs, out of which Rs. 22½ lakhs represent an accounting adjustment and the actual increase is Rs. 95 lakhs. Out of this, Rs. 3 lakhs are due to the growth in pensionary charges and Rs. 1 lakh to relief in under-staffed offices. The balance of the increase available for other purposes is thus Rs. 91 lakhs, out of which Rs. 87 lakhs or 95 per cent. of the additional resources have been utilised on beneficent activities.

To sum up the position, it comes to this, that we are carefully husbanding and conserving our resources and turning every pie we can in the direction of national reconstruction. Whereas formerly the resources were directed mainly towards routine administration, it is now our policy to utilise them increasingly in the work of national reconstruction.

Each and every one of us is filled with the desire to advance and remove the hindrances that lie in the path of national development, but in our zeal for reform, we should not forget the obvious fact that the mere provision of funds is not a guarantee for the success of our schemes. We may provide money for many a constructive programme, we may set up appropriate machinery and give a start, but if there is wanting a proper environment and willingness on the part of the public to get the best out of these schemes, success will ever remain in the realm of expectation. It is no doubt the duty of the Government to see that their programme proceeds along the most progressive lines, but unless the public come forward with intelligent and helpful co-operation, the desired results will not be obtained, and the advancement of the province as a whole will be sadly retarded.

Nor does it mean that everything that is necessary can be achieved by legislation. Legislation may be used both as a check and an urge, and if legislation is necessary we shall readily undertake it. But the idea that anything and everything can be done by legislation must be discarded. There is much that people and private institutions can do for their own part, and if we are to progress, we shall need a new psychological attitude and a new outlook on things that will assist the task of national reconstruction on every front. Our problems are vast and we have to make up for the accumulated deficiencies of many years.

I do not wish to suggest that all that can be done for the task of national reconstruction has been done. The task is heavy and we shall have to tackle it with all the caution and care that we can command. The task is also urgent and while the call is to hasten, prudence bids us hasten slowly. I do not know if I have conveyed the impression that I am too pessimistic. Sir, as far as I am concerned, I wish to say only this, for the sake of the province there is no experiment too risky for us to consider, there is no precaution too trivial for us to take.

The emergence of a surplus or the possibility of using a sizeable part of the revenue is not in itself a guarantee that money can be suitably spent. The essence of prudence is to spend money to the best advantage and it is as uneconomical to be rash as to be tardy in our expenditure.

Sir, we can but readjust the economic forces, but they are in themselves overpowering and inevitable. The experiments to control these forces too rigidly have failed in the West and the lesson we must derive from the economic history of the world in the last decade is that we must give free play to the inevitable forces that shape our economic progress. We may desire quick progress, but it can never be any quicker than natural forces will permit. But apart from the question of the extent up to which control may be judicious, we in the provinces have not got powers over some of the important factors such as currency and credit policy and tariff and other allied factors through which such control is to be exercised. In order to stimulate the economic possibilities of this province, therefore, we can only consider such measures as lie within our own purview.

Education, Health, Sanitation, Agriculture and Industry present formidable problems. I am happy to say that we have sown the seeds of improvement in the form of a number of schemes, but it will take time for the seeds to germinate and sprout. In education, for instance, the needs of various localities have to be studied, teachers have to be trained and accommodation provided. A hundred other points have to be taken into consideration, and no less difficult are the tasks relating to health, agriculture and industry. Obviously the results of the schemes we are launching or have launched in these various departments cannot be visible on any large scale immediately or even in a year, though I may assure the House that everything will be done to expedite the progress and extension of the various schemes undertaken. We are satisfied, however, that we are laying the foundations of many beneficent activities and that these will gradually expand and gather momentum from their own development. One will react on and aid the other and each one that succeeds, will give place to something larger, better and more comprehensive.

I have done. I now await the comments of the hon'ble members on the budget provisions. But may I suggest, Sir, that from this House of Elders I expect not merely the emphasizing of the obvious and stereotyped deficiencies of the budget but a sober and constructive criticism that points to the road and does not pick out only the obstacles and drawbacks. We do not claim infallibility, we scorn no advice. It is in the spirit of being better advised that I approach this House for opinion and counsel.

Mr. PRESIDENT: Copies of the budget will be distributed to the hon'ble members just now.

(Papers were distributed in the House.)

I now come to the question raised by the Leader of the Opposition about the presence of a C. I. D. man in this House. On enquiry I understand that the Bengalee Reporter who is present here also serves

in the C. I. D. It was not known to me before, but I assure the hon'ble members that I shall make an enquiry into this matter and inform the House later.

Dr. RADHA KUMUD MOOKERJI: On a further point of privilege arising out of your own statement, Sir. I think this Council must strongly protest against the possibility of intrusion by a Government employee without the consent of the President.

Mr. PRESIDENT: The fact is simply this—he has not come here as a C. I. D. officer. As a matter of fact, I will never allow a C. I. D. officer to be here. But under the existing arrangement the duty of supplying Reporters to this House rests with the Government and they select and send Reporters who are Government servants employed in other departments. This arrangement is being continued for the sake of economy only. I know in the Central Legislature as well as in some other Legislatures, the reporting staff belong to the Legislature, but for the sake of economy in certain places they are also supplied by the Government. It is desirable to continue the present arrangement which will be examined by the Chair. I will take the House into my confidence as to how such intrusions can be prevented.

Dr. RADHA KUMUD MOOKERJI: The point of privilege that I have raised is that the President's consent must be obtained beforehand to the introduction of an undesirable element.

Mr. HAMIDUL HUQ CHOWDHURY: May I enquire whether a C. I. D. officer has got a special disqualification if he does nothing more than report the proceedings as the other Reporters do? Does he carry with him the report that he takes down here?

Mr. RADHA KUMUD MOOKERJI: I want to insist on the President's authority to issue permits even to Reporters although they are sent by the different departments of the Administration.

Mr. PRESIDENT: The question is a very important one. We do not know whether any copy of the reports, taken down by the Reporters, are taken away by them. I shall fully consider all these points and inform the House later about my decision on this matter.

Adjournment.

The Council then adjourned till 2-15 p.m. on Monday, the 21st February, 1938.

Members absent:

The following members were absent from the meeting held on the 18th February, 1938:—

(1) Banerjee, Rai Bahadur Keshab Chandra.
(2) Chowdhury, Mr. Humayun Reza.
(3) Chowdhury, Mr. Khorshed Alam.
(4) Esmail, Khwaja Mahammad.
(5) Goswami, Mr. Kanai Lal.
(6) Hossain, Mr. Latafat.
(7) Jan, Khan Bahadur Shaikh Muhammad.
(8) Laidlaw, Mr. W. B. G.
(9) Sinha, Rai Bahadur Surendra Narayan.
(10) Stokes, Mr. H. G.
(11) Wilmer, Mr. D. H.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Monday, the 21st February, 1938, at 2-15 p.m., being the twelfth day of the First Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble MR. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Accommodation in Berhampore Detention Camp.

164. Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether it is not a fact that a complaint has been made regarding the arrangement for accommodation of detenus in the Berhampore Detention Camp as being quite insanitary and insufficient;

(*b*) whether the Eastern Barrack of the Detention Camp at Berhampore is insanitary;

(*c*) whether it is blocked on the south by a high wall outside which is quite close to the room;

(*d*) whether the major portion of doors are made of wood thus preventing all ventilation;

(*e*) whether it is a fact that all the rooms are locked up at 9 p.m., and the arrangement for passing urine and stools is located inside each room;

(*f*) how many detenus are kept in each room and what is the capacity of each room;

(*g*) whether any Medical Officer is allowed inside the Barrack where the detenus are confined;

(*h*) whether it is a fact that even in case of illness of any detenu no Medical Officer is allowed to see him inside the Barrack and it is only when the Commandant recommends

his removal to hospital that the detenu gets the first opportunity of medical aid;

(*i*) how many detenus one convict is allowed to serve;

(*j*) whether it is not a fact that the convicts are directed to perform specific works only for the detenus and that they are punished if they exceed the work so specified;

(*k*) (*i*) whether the Jail Code is applicable to the detenus;

(*ii*) whether it is not a fact that the detenus are compelled to stand in the presence of the Commandant even though he be at a distance, and

(*iii*) whether they are compelled to observe the same rules in relation to the Commandant as an ordinary convict prisoner has to observe in relation to the Superintendent of the Jail;

(*l*) whether complaints have been made about ill-treatment by the Camp officials and particularly of their Assistant Commandant, Mr. G. Dutta, towards the detenus;

(*m*) whether the Hon'ble Minister considers the desirability of making any inquiry into the conduct of the Camp officials towards the detenus in this Detention Camp at Berhampore; and

(*n*) whether the rooms of the Barrack are not insufficiently lighted?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) Yes.

(*b*) to (*d*) No.

(*e*) Detenus are not locked up at 9 p.m. A temporary latrine for night use is provided in each room.

(*f*) This varies according to the area and capacity of the room. Each detenu is allowed seventy square feet.

(*g*) and (*h*) The Camp doctors visit sick detenus in their Barracks when necessary.

But since a Medical Officer was assaulted by detenus in Camp the practice is to restrict the visits of doctors to the detenus' quarters as far as possible.

(*i*) Seven in the kitchen; twelve in rooms.

(*j*) Specified work is allotted. No punishment is given for exceeding it.

(*k*) (*i*) and (*iii*) No.

(*ii*) Detenus in the Camp are required to stand up when their quarters are visited by an Inspecting Officer or authorised visitor.

(*l*) Not to Government.

(*m*) Does not arise.

(*n*) They are sufficiently lighted.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state what is the time for locking up in that camp?

The Hon'ble Khwaja Sir NAZIMUDDIN: 9-15 p.m.

Mr. KAMINI KUMAR DUTTA: As to reply to (*h*), where it has been stated that since the medical officer was assaulted, the practice is to restrict the visits of doctors, will the Hon'ble Minister be pleased to state if it is a fact that no doctor is at all allowed into the barrack?

The Hon'ble Khwaja Sir NAZIMUDDIN: This is not a fact.

Mr. KAMINI KUMAR DUTTA: As to (*k*) (*ii*) "Detenus in the camp are required to stand up when their quarters are visited by an Inspecting Officer or authorised visitor," is there any rule for observance of this practice?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes.

Mr. KAMINI KUMAR DUTTA: Rule issued by the Government?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state when was the rule issued?

The Hon'ble Khwaja Sir NAZIMUDDIN: It was issued in connection with rules and regulations in camps and how the camp is to be conducted.

School for Bogra District Khas Mahal.

165. Khan Bahadur Maulvi MOHAMMAD IBRAHIM: (*a*) Is the Hon'ble Minister in charge of the Education Department aware that in comparison with the other parts of the Bogra district, about a lakh of tenants in the district *khas mahal* area are steeped in the darkness of ignorance?

(*b*) Is the Hon'ble Minister also aware that not a single middle English school or a sufficient number of junior madrasahs exist therein?

(*c*) Is the Hon'ble Minister considering the desirability of removing the ignorance of the poor tenants by establishing at least two middle English schools and two junior madrasahs in the above *khas mahal*?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Minister in charge of the Education Department): (*a*) and (*b*) It would appear from the figures given below that the *khas mahal* tenants are not less fortunate in the matter of educational facilities than their fellow beings in other parts of the district. In the *khas mahal* area Government spent Re. 1·7 per pupil in the year 1936-37 against Re. 1·3 in the other parts of the rural area of the district—

	Khas mahal area.	Other parts of rural area.
High English schools ..	1	15
Middle English schools ..	2	42
Middle Vernacular schools ..	..	1
Junior madrasahs ..	1	30
Primary schools ..	36	1,167

Besides the above, there are some middle English schools and junior madrasahs nearabout the *khas mahal* area within easy reach of the *khas mahal* tenants.

(*c*) From the reply given to (*a*) and (*b*) of the question, it will be seen that there are middle English schools and junior madrasahs in or nearabout the *khas mahal* areas of the district. If more schools and junior madrasahs are considered desirable, the local people should move in the matter and then apply to the department for departmental grant.

Government High English Schools.

166. Mr. MUKHLESUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) how many high English schools, in the Presidency, are managed by Government;

(*ii*) what is the total expenditure incurred in maintaining these schools;

(*iii*) what is the total collection realised from the students as fees from these schools; and

(*iv*) what is the total number of students reading in such schools?

(*b*) Will the Hon'ble Minister be pleased to state—

(*i*) how many high English schools are there managed by private bodies receiving Government aid;

(*ii*) what is the total amount given to these schools by way of aid;

(*iii*) how many students read in these schools; and

(*iv*) whether the same rate of fees from the students is maintained in Government and aided schools?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Minister in charge of the Education Department): (*a*) (*i*) Forty-seven.

(*ii*) Rs. 13,57,404.

(*iii*) Rs. 4,44,556.

(*iv*) 15,161.

(*b*) (*i*) 503.

(*ii*) Rs. 9,13,598

(*iii*) 127,933.

(*iv*) No.

Jute Restriction Department.

167. Mr. RANAJIT PAL CHOWDHURY (on behalf of Mr. Shrish Chandra Chakraverti): Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state—

(*a*) the amount of total salaries drawn last year (1936-37) by the officials of the Jute Restriction Department;

(*b*) the amount of total salaries drawn by the ministerial staff of the said department;

(*c*) the total amount of salaries paid by the said department;

(*d*) the total amount of other expenditure made by the said department; and

(*e*) the quantity of total production of jute in the province for each of the years 1934-35, 1935-36 and 1936-37 quoting the average prices each year per bale of each of the main species of jute produced?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) Rs. 14,715 approximately.

(*b*) Rs. 398 approximately.

(*c*) Rs. 19,307 approximately.

(*d*) Rs. 46,104 approximately.

(*e*) The total production of jute in the Province of Bengal during the years 1934-35, 1935-36 and 1936-37 was 7,749,500; 6,538,000 and 8,035,900 bales, respectively.

The Calcutta export prices of jute of various gradations in bales of 400 lbs. each ranged from Rs. 44 to Rs. 17-12 in 1934-35, from Rs. 48 to Rs. 21 in 1935-36 and from Rs. 51 to Rs. 23-8 in 1936-37. The upcountry prices during these years in maunds were Rs. 6-4 to Rs. 2-4 in 1934-35, Rs. 7-12 to Rs. 2-14 in 1935-36 and Rs. 7-8 to Rs. 3-8 in 1936-37. The prices of different species of jute are not available.

Mr. NARESH NATH MOOKERJEE: From the figures given here by the Hon'ble Minister showing the production for 1936-37, we find there has been an increase of 1½ crores of bales for this period. Are we to take it, Sir, that the Government restriction scheme is not operating successfully or what is the cause of this abnormal rise during this period in the production?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Sir, there are many reasons for this which I cannot say off-hand. The price of jute was so high that if there had been no restriction, we were afraid the production would have gone up to Rs. 90 lakhs.

Improvement of Agriculture.

168. Mr. KAMINI KUMAR DUTTA: (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state whether the Government are aware of the fact that among the leading countries of the world, India has the highest percentage of people dependent on agriculture and the lowest percentage employed in industries, transport and trade, and that the proportion of the population dependent on the soil is progressively growing larger and larger?

(*b*) If the answer to (*a*) be in the affirmative, will the Hon'ble Minister be pleased to state what steps the Government intend to take to improve this deplorable condition as far as Bengal is concerned?

(*c*) Will the Hon'ble Minister be pleased to state what practical steps the Government intend to take to increase the productive power of the soil in the rural area?

(*d*) Will the Hon'ble Minister be pleased to state what steps the Government have so far taken to give the cultivators work during the period of their inactivity after they have reaped their crop so as to provide them with a supplementary income?

(*e*) Will the Hon'ble Minister be pleased to state what steps the Government have so far taken for the creation of better facilities for efficient production and marketing of industrial products and the financing of industries since the last budget grant?

(*f*) Will the Hon'ble Minister be pleased to state what steps the Government have so far taken for the establishment of new industries having good prospects since the last release of the Hon'ble Minister's five-year plan?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: (*a*) I am prepared to accept these statements as the personal opinion of the hon'ble member, but I have no statistics from which to judge their correctness nor am I competent to speak on behalf of all India.

(*b*) Does not arise.

(*c*) The department is engaged in carrying out research and experiments to increase the productive power of the soil and endeavours to have the results propagated through demonstration. My proposals for strengthening the research and the demonstration staff of the department will appear in the next budget.

(*d*) By the provision of facilities for training in cottage industries such as cotton, jute, wool and coir weaving through the agency of a number of demonstration parties and peripatetic and district weaving schools.

(*e*) The question is not understood. Both before and since the last budget grant the department has carried out experiments for the more efficient production of industrial products and has taken steps to introduce improvements effected through the agency of industrial schools and demonstration parties. Training in up-to-date methods is given in production of such articles as cotton, wool, jute and silk fabrics, brass and bell-metal wares, cutlery, pottery, umbrellas, leather goods and articles made from coir. Facilities for financing small scale industries have been provided through the State Aid to Industries Act and the Industrial Credit Syndicate Limited. In addition to these normal activities of the department, steps have been taken to put into operation the special schemes included in the last budget, such as the various schemes dealing with the silk industry and for development and improvement of handloom weaving.

If the hon'ble member refers to new schemes for which no budget provision was made, the answer is there are no such schemes in operation.

(*f*) The reference to "the last release of the Hon'ble Minister's five-year plan" is not understood. I have not "released" any five-year plan.

The steps which I propose to take for selection and establishment of new industries having good prospects will appear in due course in my budget proposals.

Mr. KAMINI KUMAR DUTTA: With reference to answer (*e*), will the Hon'ble Minister be pleased to state if actually any financial aid has been rendered to any small scale industries?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Certainly, I mean the Industrial Credit Syndicate. They have given certain financial aid to small scale industries.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state if the Industrial Credit Syndicate has at all begun to operate?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: In the detenus section it has been operating.

Mr. KAMINI KUMAR DUTTA: The detenus section is being operated, but will the Hon'ble Minister be pleased to state whether it is through the Industrial Credit Syndicate?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Yes.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state if besides the aid to the detenus section, the Industrial Credit Syndicate has rendered any other financial aid?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I want notice, Sir.

Mr. KAMINI KUMAR DUTTA: As to (*f*), will the Hon'ble Minister be pleased to state if he did not give out any five-year plan during the last budget session?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Here in (*f*) it is mentioned "since the last release of the Hon'ble Minister's five-year plan" but I have said in reply that I have not released any five-year plan.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister just give a reply to my question "if the Hon'ble Minister gave out any five-year plan during the last budget session"?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I did not give out any five-year plan in the last budget.

Mr. HUMAYUN KABIR: In regard to answer (*a*), will the Hon'ble Minister be pleased to state if he is aware of the fact that in the Census Report for 1931 it is categorically stated that for every twenty-five persons employed in the agricultural industries in Bengal, only one is employed in the liberal professions and industries.

The Hon'ble Khwaja Sir NAZIMUDDIN: On a point of order, Sir. If this information is already available in a Government publication, there is no use asking the Minister about it. One of the points for the purpose of the question is for eliciting information. If the information is already available in a Government publication then there is no justification for putting that question. The questions are not meant for the purpose for cross-examining the Minister.

Mr. HUMAYUN KABIR: I submit, Sir, that since the question was put, an answer should have been given. I would further submit that this information may be available in different books, but they are not available in a collected form and the questions are generally put in order to drive some particular point. If the answers are given in the form in which we want them, we can press the Government to undertake some particular course of action. In any case, Sir, may I have an answer to my question?

The Hon'ble Khwaja Sir NAZIMUDDIN: I would like your ruling on this point.

Mr. PRESIDENT: I think the supplementary question put by Mr. Humayun Kabir, is to ascertain his information or to show that the Nawab Bahadur of Dacca could easily supply the required information from statistics available in the Census Report, but on the contrary, the Hon'ble Minister stated in his reply that he had no statistics from which to judge the correctness of the statement in the question.

The Hon'ble Khwaja Sir NAZIMUDDIN: The hon'ble member is not asking a question whether such and such information is true, but he is merely enquiring whether this is so and so. He is only asking a question the information of which is already in a Government publication and which is known to him.

Mr. PRESIDENT: So he said that the answer is not correct.

The Hon'ble Khwaja Sir NAZIMUDDIN: It is an argument. I would like to say that this is an important point. I beg to submit

that the object of a question is to elicit information not to controvert or argue a matter.

Mr. PRESIDENT: That is quite correct.

The Hon'ble Khwaja Sir NAZIMUDDIN: If the Minister has given a wrong information, that is there, but the hon'ble member cannot argue. Argument will go on *ad infinitum*.

Mr. PRESIDENT: He merely wanted to say that the answer is not correct. It is not an argument.

The Hon'ble Khwaja Sir NAZIMUDDIN: Is that the object of a supplementary question? He wanted to show that the Hon'ble Minister could not answer that question because that was to be had from statistics that were not known to him. The object of the supplementary question is to show that the answer that could be given was an answer which the Hon'ble Minister has failed to give. But then that will lead to an argument.

Mr. PRESIDENT: Here he merely wanted to show that the Hon'ble Minister could answer that question but he tried to avoid it by saying that he had not the statistics to give that answer. It was possible to give an answer if the Hon'ble Minister so desired.

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, Sir, but then the Hon'ble Minister may say "no" and argument would go on. Where will it end?

Mr. HUMAYUN KABIR: If the Hon'ble Minister says "no" I shall accept it.

The Hon'ble Khwaja Sir NAZIMUDDIN: He should also accept what has been stated here. At what stage he will accept, and I submit that the object of the question is to elicit information about a certain thing which is not there, for the information is already in the possession of the hon'ble members. Because something has been said which is not according to that information, there is no justification for asking for that and trying to prove what he has said.

Mr. PRESIDENT: The original question was put by one member and in answer the Hon'ble Minister said that it was not possible for him to give an answer. Another member by supplementary question is certainly entitled to prove that a correct answer could have been given by the Hon'ble Minister from the statistics available to Government in their own publications and there was no need to evade the answer.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, is that one of the objects of the question?

Mr. PRESIDENT: The object of putting a question is to elicit information and Mr. Kamini Kumar Dutta's aim was to get some information. The Hon'ble Minister stated that he was not in a position to answer the question. Another hon'ble member can certainly prove that the answer could have been given. It is quite a legitimate right of a member to put such a supplementary question.

Mr. RANAJIT PAL CHOUDHURY: May I submit, Sir, that a question is not merely for the purpose of eliciting any information but that it has a value of having a sort of check and control on the management of Government?

Mr. PRESIDENT: Indirectly that is also so.

The Hon'ble Khwaja Sir NAZIMUDDIN: I would like to have your ruling, Sir. This is a question of precedent and ruling is important on this point. Unfortunately I have not got it available. It does not say that the primary question is not for the purpose of eliciting information. The object of all questions is to elicit information and not to controvert a statement. Now the main object of the hon'ble member's supplementary question is to controvert an information that has been supplied to the House and not to elicit information. Therefore, I submit and I hope, you will, Sir, if you like, kindly take time to consider this thing, not because I do not find it just now where it is, but because it is an important point. If you defer your ruling on this, if one supplementary question is allowed to controvert a statement of an Hon'ble Minister, then supplementary questions should be allowed to argue a point too, i.e., to argue what the Hon'ble Minister has said, is not correct and that the arguments are in favour of this, and as you know, Sir, the arguments are not allowed in a question. Questions are merely for eliciting information.

Mr. HUMAYAN KABIR: May I submit, Sir, that had a proper answer been given to a question and another supplementary question were put in order to controvert that answer, that would be a different matter, and would probably come under the objection raised by the Hon'ble Minister in charge of the Home Department. But where it is only pointed out that the answer is not complete or that the answer has not been given or that the answer has been avoided, that is entirely a different matter, and I submit, Sir, that the House should have a right, to interrogate further in such cases. Members must have the right of asking supplementary questions in order to

elicit further information on a particular point, and it is a part o such further information when we want to know as to whether th information is available or not.

Mr. PRESIDENT: Order, order. A point of order has been raised The question of Mr. Kamini Kumar Dutta was whether among th leading countries of the world, India had the highest percentage o people dependent on agriculture and the lowest percentage employe in industries, transport and trade, and whether the proportion of th population dependent on the soil was progressively growing large and larger. The Hon'ble Minister could have given a direct answe by saying "Yes," or "No," but instead he stated: "I am prepare to accept these statements as the personal opinion of the member but I have no statistics from which to judge their correctness, no am I competent to speak on behalf of all India." Then in a supple mentary question Mr. Humayun Kabir wanted to show that the Hon'ble Minister could easily have got the materia from Goverp ment-published Census Reports and thus could answer the question I hold that the supplementary question is relevant and cannot be sai to be merely argument.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Wit reference to answer (*d*), will the Hon'ble Minister be pleased to state how many demonstration parties and peripatetic and district weaving schools are there in Bengal?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca I want notice. I cannot say off-hand.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: How many people are being trained annually in these schools?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca I want notice, Sir.

Mr. HUMAYUN KABIR: May I ask the Hon'ble Minister whether he has any answer to that portion of question (*a*) which reads: "..... the proportion of the population dependent on the soil is progressively growing larger and larger"? This point has not at all been touched by the Hon'ble Minister in his answer.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I have nothing further to say, Sir.

Mr. HUMAYUN KABIR: On a point of order, Sir. If a question is asked and allowed by the Hon'ble President, is it not going against the privileges of the House if the answers are vague or if answers are not given even though they are available by a reference to the Census Reports, which are published by Government, and may not the House raise the question of privilege in such cases? I would only point out that this information could easily be obtained by compiling the census figures from 1881 to 1931, and if the Hon'ble Minister will look up, he will find out what is actually the case—whether the pressure on the land has been increasing progressively or not.

Mr. PRESIDENT: If the answer is no, the Hon'ble Minister should say that.

Mr. HUMAYUN KABIR: I am only raising the question of the privilege of the House. If a question is asked and admitted by the President, and an answer is possible without any undue expense, loss of energy, or any of the usual sort of arguments so often advanced by Government——

Mr. PRESIDENT: I think that the Hon'ble Ministers do try their best to answer questions.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: May I say, Sir, that I have already replied to all the questions, but that my friend wants me to answer questions in the way he likes?

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state whether the answer which he has given to this particular portion of question (*a*) is a proper answer?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I have said that I am prepared to accept the statements of the hon'ble member as his personal opinion, but I have no statistics from which to judge their correctness.

Mr. PRESIDENT: Yes, that is a proper answer to part (*a*).

Cost of Survey and Settlement Operations.

169. Mr. SAILESWAR SINGH ROY: Will the Hon'ble Minister in charge of the Revenue Department be pleased to state separately—

(*a*) the rate of costs fixed per acre in each district of Bengal for survey and settlement operation;

(*b*) the actual proportion of the rate of costs in each district borne by—

(*i*) Government,

(*ii*) Landlords, and

(*iii*) Tenants;

(*c*) the exact total amount required to carry on survey and settlement operations in each district;

(*d*) the exact amount recovered as survey and settlement costs by Government from (*i*) the landlords and (*ii*) the tenants in each district; and

(*e*) the amount of profit or loss to Government in respect of survey and settlement costs in each district?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) to (*c*) and (*e*) Statements furnishing the information are placed on the Library table.

(*d*) No separate figures were kept for each district to show the amounts collected from landlords and tenants, separately.

Escape on the Gumti Embankment.

170. Mr. KAMINI KUMAR DUTTA: In view of the answer given to clause (*k*) of question No. 62 at the meeting of the Bengal Legislative Council, held on the 17th September, 1937, will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state what steps have by this time been taken for the construction of an escape on the Gumti Embankment in Tippera for disposing of a portion of the almost annual and devastating flood there?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Kasimbazar): The survey work in connection with the proposed escape on the Gumti Embankment has already been taken up and is in progress.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state in how many places work in connection with the proposed escape has been taken up?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar: The hon'ble member will find his answer in connection with my answer to the next question.

Embankment on River Gumti.

171. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state—

(*a*) whether it is a fact that owing to the embankment of the river Gumti its water during floods cannot spread on the sides;

(*b*) whether as a result thereof, the river is being silted up in several places and the bed of it has risen considerably particularly near Comilla;

(*c*) whether in consequence, the riparian *bustees* are flooded annually causing much inconvenience and loss to the owners thereof;

(*d*) whether in high floods, the water of the river Gumti overflows the embankment in some parts and causes breaches in it in other parts causing tremendous loss to crops of tenants and to their *bustees* lying within the Sadar subdivision of the district of Tippera, and whether such floods are quite frequent or not;

(*e*) whether it is a fact that the removal of obstruction to the working of nature is the only cure for the troubles to which the inhabitants of Kotwali, Chandina, Burichang, Debiduar and Muradnagar thanas within the Sadar subdivision of the district of Tippera are subjected;

(*f*) whether the Government intend to undertake the work of demolishing the embankment as a permanent cure of this destruction of crops and *bustees* by floods;

(*g*) whether the construction of an escape for excess flood-waters in the Gumti Embankment is the most adequate step to stop the destruction of crops and *bustees*.

(*h*) how many escapes will be constructed and at what points and whether the works will be finished before the next rainy season;

(*i*) whether it is a fact that this question of escapes and their construction is hanging for the last twenty years; and

(*j*) whether it is a fact that the noted expert engineer, Sir William Wilcocks, was definitely for demolishing all embankment and the same view found expression in a book by Sants Bourge named, "Some plain facts about flood in Bengal and Assam"?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Kasimbazar: (*a*) and (*b*) Yes.

(*c*) and (*d*) Breaches occur almost annually and some damage is caused to crops.

(*e*) Yes, that would be an ideal solution.

(*f*) No, because people, vested interests and land that have been protected by embankments for a long time cannot suddenly be exposed to river spill.

(*g*) Yes.

(*h*) The survey work in connection with the two proposed escapes at Madhuban and Subarnapur has been taken up. The scheme will not mature before the next rains.

(*i*) No.

(*j*) Sir William Wilcocks pointed out the evil effects of embankments. I have not seen the book by Sants Bourge.

Jute Cultivation and Marketing.

172. Mr. HAMIDUL HUQ CHOWDHURY: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state if he proposes to take any action under section 177 of the Improvement Trust Act or to repeal section 84 of the Act and abolish the collection of any cess on jute and divert the proceeds of this cess for the improvement and organisation of jute cultivation and jute marketing?

MINISTER in charge of the PUBLIC HEALTH and LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Syed Nausher Ali): As the operations of the Calcutta Improvement Trust are far from complete, action under section 177 of the Act does not appear to be either called for or expedient. Besides, customs being now a Central subject, the Provincial Government appear not to have any powers either to abolish or impose any customs duty or to divert the proceeds of any such duty to any objects other than those prescribed by any existing law.

Trained Dai for Municipalities.

173. Rai BROJENDRA MOHAN MAITRA Bahadur (on behalf of Rai Surendra Narayan Sinha Bahadur): Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state—

(*a*) what amount of money do the Government annually spend for *dai* training within municipal areas;

(*b*) how many *dais* have been trained by municipalities within the last three years; and

(*c*) which of the municipalities have appointed midwives?

The Hon'ble Mr. SYED NAUSHER ALI: (*a*) A total grant of Rs. 15,000 is made for the whole province out of which municipalities receive a share which varied between Rs. 3,300 and Rs. 3,750 during the last three years.

(*b*) 1934-35	..	..	.. 255
1935-36	..	..	.. 260
1936-37	..	..	.. 268

(*c*) A list is laid on the Library table.

Kabuli Money-lenders.

174. Mr. H. P. PODDAR: (*a*) Will the Hon'ble Minister in charge of the Judicial and Legislative Departments be pleased to state if there is any list of the Kabuli money-lenders plying their trade in Bengal?

(*b*) Is it a fact that they have a network of organisation to intimidate and oppress helpless borrowers to exact their exorbitant rate of interest?

(*c*) Are the Government aware that instances are not rare in Bengal where these Kabulis used criminal force with impunity to get back their money?

(*d*) Do the Government propose to take steps to protect these borrowers from such indignities and oppression?

(*e*) Does the Hon'ble Minister consider the desirability of appointing a Committee to examine the matter?

MINISTER in charge of the JUDICIAL and LEGISLATIVE DEPARTMENTS (the Hon'ble Nawab Musharruf Hossain, Khan Bahadur): (*a*) No.

(*b*) I have no information.

(*c*) I believe such cases do occur.

(*d*) and (*e*) Government propose to examine the question and to endeavour to frame a Bill for the control of money-lending.

Recruitment of the Crown Law Officers.

175. Mr. KADER BAKSH: (*a*) Will the Hon'ble Minister in charge of the Judicial and Legislative Departments be pleased to state the

names of the Crown law officers, recruited from the Bar, who have been appointed during the year 1937 on the Appellate Side of the Calcutta High Court?

(*b*) Is it a fact that these offices have been held by Muslim lawyers previous to the present incumbents?

(*c*) If the answer to (*b*) be in the affirmative, is it also a fact that these two were the only Crown law offices held by two Moslems in the High Court amongst a large number of law officers recruited from the Bar in the High Court?

(*d*) Is the Hon'ble Minister aware that this action has created great apprehension in the minds of the Muslim public over the Government policy?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: (*a*) There were no permanent appointments in 1937. The names of such law officers as held officiating appointments, respectively, in 1937 are—

(1) Mr. D. N. Bhattacharyya—Deputy Legal Remembrancer.

(2) Mr. R. P. Mukharji—Assistant Government Pleader.

(3) Mr. G. Gupta Bhaya—Government Counsel.

(*b*) Posts (1) and (2) have at times in the past been held by Muslims. The last permanent Deputy Legal Remembrancer was a Muslim but the last permanent Assistant Government Pleader was Hindu.

(*c*) and (*d*) The hon'ble member is referred to my answer to question No. 83 asked at this session by Khan Bahadur Ataur Rahman, M.L.C.

Mr. HAMIDUL HUQ CHOWDHURY: May I draw the attention of the Hon'ble Minister in charge that he has not answered question (*b*)? What is the answer?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Sir, I have already read out the answer to question (*b*).

Rajshahi Divisional Teachers' Co-operative Relief Society, Limited.

176. Rai BROJENDRA MOHAN MAITRA Bahadur: (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state—

(*i*) whether the Rajshahi Divisional Teachers' Co-operative Relief Society, Limited, has ceased to function;

(*ii*) whether this is due to the refusal of the Assistant Registrar, Rajshahi Division, and the Registrar, Bengal, to sanction the issue of loans to members on the security of their deposit money, though by the Board of Directors as well as at the Annual Conference of the Society, it was repeatedly asked for;

(*iii*) whether most of the members, including Directors, have as a protest withdrawn their deposit money; and

(*iv*) whether the Secretary wrote to the Assistant Registrar to take steps to wind up the Society?

(*b*) Will the Hon'ble Minister be pleased to state the date by which the Secretary wrote to the Assistant Registrar, informing him that the members had withdrawn their money?

(*c*) What action has been taken on this letter?

(*d*) Will the Hon'ble Minister be pleased to lay on the table the correspondence that passed between the Secretary and the Assistant Registrar on this matter?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) (*i*) The Society is not working properly though it has not been dissolved or liquidated.

(*ii*) and (*iv*) Yes.

(*iii*) No.

(*b*) No such information was sent to the Registrar. On the 20th July, 1937, the Secretary of the Society informed the Assistant Registrar that the majority of members had resigned.

(*c*) No action was taken then, but the matter is now under reconsideration.

(*d*) Copy of correspondence is laid on the Library table.

General discussion on Budget.

Mr. LALIT CHANDRA DAS: Sir, we are, beholden to the Hon'ble Finance Minister for his words of hope and encouragement, even of assurance that our discussion and criticism of the budget will be heard with the greatest respect and attention.

Sir, a House which has no power to assent to or to refuse demands for grants affecting the well being of a whole province, can hardly lay claim to that respect which is its due. Our House is a representative body—out of its sixty-three members six only are nominated. We claim the right to vote—not merely to discuss the budget—we claim

that section 79 of the Government of India Act, 1935, be so amended that no question of individual mercy may arise.

Sir, last year, the Hon'ble Finance Minister uttered words of praise in favour of the last Government—the Government of Sir John Anderson. He has repeated those words this year also in this House. He thinks that the present improvement in the financial position of Bengal is mostly due to that Government. In this, Sir, I beg to differ. As a matter of fact, Sir John Anderson did make two trips to Simla and got something out of the jute export duty; and a portion of that jute duty was available to the Government from the year 1934. Yet, in spite of that, I should say that Sir John Woodhead muddled the finances of Bengal and left us a debt of 8,41 lakhs of rupees inclusive of deficit borrowings which the Government of India, on the report of Sir Otto Neimeyer, remitted and enabled the Government of Bengal to start with a clean slate. The Government of India went further and contributed a sum of Rs. 98 lakhs as an opening balance. Sir John Woodhead taxed the poor to give to the rich and restored the 5 per cent. cut in the officers' salaries which should never have been done. But I will freely admit that the Hon'ble Finance Minister is indebted to Sir John Woodhead to the tune of Rs. 30 lakhs which he secured for him by the five new taxation measures. Sir, we are grateful to the Hon'ble Minister for his announcement that one of these five taxes—the tobacco tax—will be withdrawn. But the tax on electricity which affect poor people, should also go. Regarding the taxes on stamps and court-fees, although the tax on stamps will increase the revenue, it will react on the tax on court-fees, for, you cannot make people compound and yet litigate. The taxes both on stamp and court-fees should also go. The amusement tax may, however, take care of itself.

No Finance Minister with a clean conscience can tax the poor afresh unless all the possible avenues of retrenchment have been thoroughly explored and carried out. The Swan Committee of 1932 proposed or rather made recommendations for a saving of Rs. 1,84,000, as was stated by the Hon'ble Finance Minister last week in this House, and he told us also that out of that 50 per cent. of the recommendations had been carried out. Jobs entailing an expenditure of about a crore of rupees remain yet to be retrenched. At such a time, the appointment of Mr. Blandy to review the recommendations of the Swan Committee or even to suggest avenues of retrenchment may end in no further recruitment at all, and we apprehend that the proposed White Paper may after all be a white-washing document for no retrenchment.

Sir, the cost of the Legislative Department establishment in 1936-37 was only Rs. 1,51,000. In the revised estimate of 1936-37, we find that the cost of the same Department has come up to Rs. 3,14,000.

And, we are faced with a peripatetic rise in the cost for the same Department which has been shown as Rs. 13,32,000. This reveals a mentality which, while it will preach sweet reasonableness and inflict discourses as to when and how retrenchment will and can be made, hardly has the heart to realise the magnitude of our problems of nation-building. The high salaries of the Imperial Services—the I.C.S., the I.M.S. and I.P.S.—including also the pays of the Provincial Services people, Civil as well as Executive, not excluding the pay of the Ministers, are in direct proportion to the depth of our poverty. Sir, I will go further and say that although the Statute stands in the way of the reduction of their salaries, negotiations may be attempted. I do not appreciate the argument that their efficiency would suffer if they agree to accept lesser pay, for nowadays when vacancies occur, by the rule of demand and supply, the supplies are so plentiful that very efficient people are available at lesser cost. Now, in this connection may I be permitted to cite the instance of Madras. Did the Madras Government lose sight of the question of efficiency when it, as a matter of fact, effected a graded reduction in the pay of their officers from 5 per cent. to 30 per cent.

The increase of Rs. 1,12,000 in expenditure for reorganisation of the offices of the Commissioners, Magistrates and Subdivisional Officers seems to me to be unjustifiable, for, in my view, the posts of the Divisional Commissioners should be abolished as quite unnecessary. They serve as mere post offices for the District Magistrates. I should say that when there are laws which give certain functions to be done by the Commissioners, that objection can be met by naming some of the members of the Board of Revenue as Commissioners to perform those functions. Sir, there should a progressive cut of Rs. 25 lakhs every year in the expenditure under the head "Police" and also a simultaneous rise in expenditure under the head "Education", so that the expenditure on Education may equal that of the Police. The more the education, the less the crime. But the expenditure under the head "Police" is almost double of that under the head "Education" which, to my mind, is disgraceful. The charges of the Calcutta Police on the Provincial Revenues are unjust. Half of this expenditure should be borne by the Government of India as they take the whole of the income-tax from the people of Calcutta. The other half should be borne by the Calcutta Corporation imposing a police tax on its citizens. If this is not accepted as a good suggestion by the Hon'ble Minister, I would say that the chaukidars' pay should be met from the Provincial Revenues and the chaukidari tax, thus made free, should be made available to the Union Boards for improvement of rural areas.

In a total expenditure of Rs. 13½ crores, we find that the nation-building subjects absorb only 3½ crores. This, I submit, is quite inadequate. The general administration including the administration of justice, police and jails cover an expenditure of Rs. 5 crores and

17 lakhs. This is a bit too high. I submit, Sir, that there should be further jail delivery. Looking not only politically, but economically also, the release of political prisoners, detenus and internees is a sound proposition, because by such delivery, there will be a good amount of saving. And when no untoward incident has yet happened due to previous releases, there is no just ground why they should be detained a day longer in jail.

Sir, I take it that it is the duty of the Hon'ble Finance Minister to find out the ways and means for accomplishing the immediate social ends for which Bengal stands in most urgent need. The first and foremost to my mind is the introduction of free and compulsory primary education side by side with the two other urgent needs, namely, prevention and cure of deadly diseases and the raising up the purchasing power of the people of Bengal. 90 per cent. of the people of Bengal are illiterate. How can they have a view of better healthy social life and a wider appreciation of the value of things and also the elementary knowledge of sanitation for prevention of disease unless you actually give them free primary education? I recognise the fact that this year the Hon'ble Finance Minister has provided five lakhs for the purpose for which he deserves congratulation if this is but an earnest of what must follow in bigger sums and in quicker succession. He says that besides Mymensingh three more districts will be taken up this year and seven more districts will soon come up for introduction of free compulsory primary education. This is all the picture we get, but there is no plan.

All we want at present is that there should be a well-planned scheme for primary education applicable to the whole province and completed in the course of a given number of years, say five years. Japan did it and so did Soviet Russia quite recently with excellent results. Why should Bengal fail?

Sir, the Hon'ble Finance Minister should declare war against illiteracy, poverty and disease,—the three great enemies interlinked one with the other of the people of Bengal. Draw up a war budget; stake the resources of the province; borrow 50 crores of rupees spreading over five years—planning to spend 10 crores each year to tackle these enemies.

Once you can make these people healthy, wealthy and wise, they will fill the coffers of the Government and pay back the loan.

Sir, since 1916, the Government of India is appropriating the jute export duty and in this way they must have by this time appropriated over 60 crores of rupees. The Government of India ought to advance the loan and if Bengal fails to repay, the Government of India should cancel the debt as they did that of Rs. 8 crores 41 lakhs at the inauguration of the Provincial Autonomy, possibly in remembrance of the

fact that by all canons of justice and fair play, the jute export duty and a large portion of the income-tax were Bengal's just dues.

I have no doubt when such big schemes are launched, they will by themselves help the man behind the plough, but at the same time solve the grave problem of unemployment which has affected every home in Bengal.

A paltry sum of Rs. 16,18,000 was allotted to industry last year. We notice with satisfaction that there has been an increase this year of Rs. 4,46,000 on this head. Considering however that industry brings in Rs. 13¼ lakhs every year, this expenditure is to my mind, too small. Of course there is Agricultural Debtors' Act, and Economic Board, also a Development Officer. The Development Officer, for paucity of fund, could do nothing. Sufficient money should be placed in his hands to encourage cattle breeding, stock breeding, fish rearing, which will bring sufficient money to Government and even make good the uncertain receipts on jute. To my mind the agency that must plan and work out plans of industry should be indigenous. The reasons are obvious. Sir, the agriculturists for six months in the year remain idle. They should be provided with the knowledge of hand-loom and other cottage industries.

I trust all these acts in course of time will so advance the wealth-producing power of the people, that it may be possible for the Government not to rely any longer for receipts of money from excise and may even enable Government to make Bengal "dry". Bengal should not wait for that day, but must enforce prohibition before the question of the spread of drinking habits amongst the people assumes serious proportions.

Sir, I should now like to refer to Civil Works, waterways and communication. Bengal has been divided into uneconomic and unscientific divisions for the above work. The Chittagong Division should be linked up with the neighbouring division for the sake of efficiency, economy, and co-ordination of works.

Sir, the roads, the waterways and the embankments in our part of the country are in a deplorable condition. More money should be spent on these than on buildings. I may mention here the name of a road, the work on which is urgent. It is the Comilla-Nabinagar Road. The portion of the district it traverses is not touched by railways. It is in a deplorable condition and it should be taken up by Government, metalled and pitched. This done, it will facilitate internal trade and marketing of goods to a considerable extent. The road is thirty-six miles long. Here I may express my regret that when such a huge amount of money was supplied by the Road Fund for the construction of roads, it could not be utilised for paucity of officers and for want of proper plans.

Sir, the embankment from Sonamurah to Jaffarganj has a knack of giving way whenever the town of Comilla is in danger. Peasants suffer loss of crops worth crores of rupees and it has given way not less than twelve times in the course of last twenty years. The best way would be to do away with the embankment altogether.

I have done and I thank the members of this House for giving me a patient hearing.

Mr. HUMAYUN KABIR: I should like to commence my remarks by congratulating the Hon'ble the Finance Minister on the lucidity of his statement while presenting the budget to us. But I am afraid I cannot extend my congratulations to many other items in it. So far as the financial statement is concerned, it is excellent and I would wish that other financial statements had the same grasp of many of the problems with which Bengal is faced to-day.

When we come to the substance of the budget, the actual propositions, which are before us, I am afraid it is a different tale and we have to look at the budget from a different point of view.

We in this House are in a difficult position, because we get only two or three days for a general discussion. Particular appropriations are not discussed by us and we do not even get time to go into the budget thoroughly. The Hon'ble Finance Minister has complained that he had only six months to prepare his budget and therefore many schemes which he would have otherwise embodied, he has not been able to include. If that is so in his case with an efficient and highly paid staff at his command, how can he expect us in the course of two or three days to master the budget and discuss it? I would therefore request that as we have only one general discussion on the budget and no further discussion on particular grants, we may in future be given an opportunity of discussing the budget at a later date with an interval of at least a week after presentation, during which we might go into the details of the budget more carefully.

I shall confine myself to some of the general principles which are embodied in the budget and I shall commence by saying that it will not be unfair to describe this budget as embodying two principles. On the one hand, we might call it a propaganda budget and secondly, we might call it a middle class employment budget. When we heard that a crore of rupees had been allotted to nation-building departments, we thought that this budget was a budget of great expectations, but when we examined the manner in which the money had been distributed, we realised with regret that instead of being a budget of great expectation it has turned out to be a budget of frustrated hopes. I shall offer only one or two comments on the principles which I enunciated a moment ago as embodied in the budget. It is a budget

which is definitely planned from the point of view of middle class employment and the Hon'ble Finance Minister has himself in one part of his statement drawn our attention to it. That is a very important question, but what I would ask at this stage is whether we can solve the question of middle class unemployment without reference to the wider context in which such questions occur. It may be true that if 10,000 appointments are given to members of the middle class, it will to a very large extent go towards mitigating the clamours of those who are politically discontented, but the question which the Hon'ble Finance Minister ought to keep before himself is a different one. He should ask himself: is it going to increase the purchasing power of the peasants? Is it going to improve the economic condition of the community as a whole? I think I shall have to refer more than once to the formulation of the three problems which he has himself enunciated, and I shall ask, if his budget satisfies the criterion he has himself laid down.

That is one aspect of the budget, Sir, and the other is that this budget is definitely a propaganda budget, in which money is scattered over a large number of items, very often without proper planning, very often without a proper appreciation of the way in which the same amount could have been better utilised. I shall accept the analysis which the Hon'ble Finance Minister has himself offered of the three most pressing problems of Bengal, namely, the solution of the problem of rural indebtedness, the spread of primary education and the stimulation of the prices of agricultural commodities, and I shall try to examine how far in the budget which we have before us to-day these three crying problems of the province are properly met.

Before I take up this question I would make only one other general remark with regard to the budget. The budget estimates are essentially on the conservative side. Of course for this I do not think that any one need blame the Hon'ble Finance Minister. When he is budgeting for the revenue of the province on which the happiness and welfare of so many millions of people depend he has perforce to be cautious; in such cases, cautiousness and conservatism are not necessarily faults. But where I would join issue with him is as regards the question whether the particular amount of money that is actually available could not be better utilised, and whether he has not underestimated some of the resources that he has at his command. I shall now refer to page 28 of his own statement in which he admits that the total closing balance for 1938-39 is Rs. 2 crores 80 lakhs. Of course, he shows that a huge amount of money is kept locked up under the Debt Deposit Section and other accounts in the budget. The Government cannot spend the total surplus which is estimated to be left in the hands of Government. In addition, he tells us that it is a deficit budget, but, Sir, when we look at it carefully, it is not a deficit budget. In that

case I might as well say that everyone of us runs a deficit budget for twenty-nine days of the month! Many of us earn all the money that we require on the first day of the month and spend it during the remaining twenty-nine days. I would also point to the figure of twenty lakhs of rupees out of taxation proposals which he has left out of account, and which are almost sure to be accepted by the legislature. The Hon'ble Minister has quite left out this figure, and it seems to me that he has underestimated the resources at our command. In his statement he has referred to the 63 lakhs surplusage—

The Hon'ble Mr. NALINI RANJAN SARKER: Rather my friend himself has not understood it, that is a "balance" surplus.

Mr. HUMAYUN KABIR: I am afraid the Hon'ble Minister himself has not understood me, if I may say so. However, let me proceed——

Maulana MUHAMMAD AKRAM KHAN: Nor have we understood either.

Mr. HUMAYUN KABIR: However, Sir, the hon'ble members will get an opportunity of expressing their opinions and they may make their remarks then. But let me go on with my point. He has stated on page 28 that this is a deficit budget, because the actual revenue expenditure this year is likely to be, according to him, more than the revenue income, but he has overlooked a possible figure of Rs. 20 lakhs which he is almost sure to obtain from the reimposition of certain taxes.

The Hon'ble Mr. NALINI RANJAN SARKER: I have overlooked that.

Mr. HUMAYUN KABIR: However, I do not want to press this point, because he has himself admitted that he does not want to depend upon any future contingency in framing his budget. But, Sir, I concentrate my attention upon the figure of one crore which has been recognised by the Finance Minister himself to be a surplus after all the liabilities of the province have been met. To take only one account. "Our estimates," he says, "for the coming year place our receipts under the Debt Deposit Heads as Rs. 16 crores 73 lakhs and our disbursements at Rs. 16 crores 80 lakhs. The latter figure includes 70 lakhs invested in short term treasury bills." Thus, the surplus of Rs. 63 lakhs remains on only one account and he himself admits that we may *invest* this surplus and earn some interest. What I would urge is that in view of the absolute balance of one crore, we may safely *capitalise* this amount, instead of merely earning an interest on it. If this sum

of Rs. 63 lakhs is capitalised, it will give us about Rs. 20 crores which could be utilised for developing the industries of the province and for improving in other ways the general economic condition of the country.

I come now to the three problems which have been stated by the Finance Minister himself. Firstly, with regard to rural debts, I would submit, that the remedies which he has suggested are of little use in meeting the problem in all its implications. He has proposed to establish more Debt Settlement Boards, which is welcome so far as it goes, but we must remember that the average size of a holding in Bengal is only five bighas, and the average income per bigha is about Rs. 15 of which Rs. 2 goes to the payment of rents. That leaves an ordinary family with only Rs. 65 a year, and if Rs. 65 is the total earning of a family, it is difficult to see how the problem of rural indebtedness can be met. Unless the purchasing power and the earning capacity of the tenantry can be improved, Debt Settlement Boards may settle debts, but the debts shall remain unpaid.

Then we find that there is a proposal to send certain officers to Denmark. That proposal is rather surprising to my mind, because I do not know whether the Hon'ble Finance Minister is aware that the co-operative movement in Denmark is a movement almost entirely directed towards the organisation of export markets and has very little to do with credit societies, while the question in Bengal is essentially one of rural credit. Here in Bengal there are 23,000 primary societies; 19,000 of these are credit societies and only 4,000 are societies of other types. Therefore it does not seem clear why in Bengal, where the problem is essentially one of rural credit, officers should be sent to Denmark where the question and solution are not with regard to rural credit, but with regard to the organisation of export markets. The Hon'ble Minister's policy reminds me of a saying that "Something must be done." This, Sir, is something, and therefore this must be done.

I would, here, refer to the Hon'ble Minister's observations on this question in an earlier part of his speech, where he clearly states that the economic problem of Bengal cannot be solved to-day without reference to the problem of other countries. This is particularly so to-day; since we have now become dependent upon grants from the Central Government, on the jute export duty and a share of the income-tax, this inter-relation between the provincial revenues and the general condition of trade in the world outside has become even closer. But even though the Hon'ble Minister has made a correct analysis, I am sorry to find that the proper conclusion has not been drawn. In fact there has been an attempt, if I may say so, to shirk a proper analysis by suggesting that the State cannot undertake the development of heavy industries or key industries in order to establish a proper balance and distribution between the proportion of population, which is dependent

upon agriculture and that which is dependent upon industry. That is a statement which we challenge, for we hold that State initiative and support can help the growth of new industries more than anything else.

If we go into the figures, we find that in Bengal eighty-five per cent. of the people are dependent on agriculture, whereas we also know that for the proper economic welfare of a country at least thirty per cent. of the people must depend on industry. From that point of view, France which is one of the most happily placed countries in the world, serves as an example. In France sixty per cent. of the people depend upon agriculture and forty per cent. on industry, but in Bengal, corresponding to that, we have eighty-five per cent. of the people dependent upon agriculture and only an infinitesimal portion of the people dependent upon industry. Of course the Finance Minister may say and he has said that this is not primarily a concern of the State. He has said that these heavy industries must be organised by private initiative. But in this he has gone against the experience and example of other countries. I would ask him and his advisers to refer to the case of the Lancashire Cotton Corporation which was inaugurated under the direct control of the Bank of England and with the co-operation, knowledge and help of the Government of the country. I could refer him also to the London Passenger Transport Board and again to the Central Electricity Board and again to the British Broadcasting Corporation. In all these cases, it was the Government that took the initiative, and particularly in the three latter cases it is Government that has organised the industries and thrown open many sources of employment to a vast proportion of the people of the country. I might also refer to the experience and history of France and Germany, and last but not least, Russia.

Sir, I would submit with regard to Bengal, that there are at any rate two industries on which Government might with profit concentrate. There is the heavy chemicals industry and there is the question of textiles. If we look at Government figures again, we find that the total consumption of cotton cloth in Bengal is in the neighbourhood of 850 million yards of cloth per year and of this Bengal mills supply us with only 150 million yards and hand-looms supply us with another 180 million, so that there is clear room for expansion up to about 500 million yards of cloth which can be manufactured in Bengal. If this were done, not only would it help to solve the general problem of unemployment in the country,—including the problem of educated as well as uneducated unemployment,—but it would also to a very large extent increase the wealth of the country and give the Finance Minister those resources which he wants for increasing the social service aspect of the State. It may be said, why

should Government go into industries in which there may be uncertainty, why should Government risk revenues of the province on industries in which the returns are not certain? But if we look at Government figures again, we find that the textile industry offers a field in which the room for uncertainty is very small. We find that the Bangalakshmi Cotton Mills declared in 1937 a dividend of five per cent. Some other mills declared dividends of ten per cent. or more, and there are other mills with shares of the face value of Rs. 100 with prices going up to the extent of Rs. 295. It may be suggested that this refers only to certain particular mills. But that is not the case. If we look at the general position of the textile industry in Bengal, we find that in 1931 Bengal had thirteen working mills out of a total of three hundred and twelve in India. In 1936 it had gone up to nineteen and there will soon be about twenty-four more mills. There is still room for further development and Government could help very largely by giving subsidies, by guaranteeing a certain rate of profit and in other ways.

There is one other industry about which Government should make up their mind. There is the question of heavy chemical industry, and that is all the more important because many of the other important industries depend on it. Again I am referring to a Government publication. In the five-year plan for industrial development in Bengal, it is clearly laid down, on page 3, that we are "interested in heavy chemicals, which are the key industrial products and as such are of fundamental importance to any country. The chemical industry in Bengal is in its infancy, and yet there are many flourishing manufacturing concerns in the country which have to depend on imported caustic soda, bleeching powder, etc." If there be a war, and who can say there shall not be one, what guarantee is there that imports will continue? In the Government report itself, it is stated that many of the flourishing industries in Bengal will be affected by the failure in supply of such chemicals and the report says that Government should, therefore, substantially help the establishment and development of such heavy chemical industries.

Not only is there room for the establishment of such industries and for their development, but the people of Bengal have also shown a peculiar skill in the development of the heavy chemical industry. I have singled out these two industries, viz., textiles and heavy chemical, because without the support of the State, and often in spite of adverse manipulation of railway rates to which reference has been made by the Finance Minister himself, these industries have made a position for themselves in India, and I put it to the Finance Minister to consider the question of improving the general economic condition of the province by helping those industries. It cannot be overlooked that the country must be industrialised, and unless it is industrialised, all talks

about improvement in the condition of the peasantry is bound to be sheer moonshine.

Again, Sir, I should like to say something about jute. Some of the suggestions which some of us made in the last session have been to some extent incorporated in the Finance Minister's statement and for that we are grateful. There is a provision for regulated markets, but he stops there, he does not go far enough. On the other hand, there is a provision for a jute census at a cost of rupees one lakh and also provision of a further sum of Rs. 50,000 for jute restriction propaganda. I fail to understand why there should be a fresh jute census at this stage. Have not Government published jute forecasts in the past? Were not these forecasts given as authorised forecasts? If Government have the machinery for jute restriction propaganda, and we have been told that last year also, a sum of money in the neighbourhood of Rs. 90,000 was spent on jute restriction propaganda, can they not utilise that machinery for getting the necessary figures for controlling the jute markets? The duplication of expenditure on jute census and jute restriction propaganda seems to be uncalled for and is a serious reflection upon the Government's own past activities. If the forecasts in the past were accurate, we have the census already: if they were not, why was public money wasted on them? Further, if jute restriction officers have worked with earnestness, they have the figures for preparing a census, if they have not, what justification was there for wasting public money on them?

I would also remind the Hon'ble Finance Minister of one or two other matters which were mentioned in this House last time. He might find a very profitable source of income from jute on the lines of the process tax which is levied in America. There is also no provision in the budget for extending the use of jute. In other countries, we find that jute has also been used for producing fibres resembling wool. If we can extend the use of jute, we can increase the purchasing power of the peasantry of the country and it is in this way alone that we can increase the general prosperity of the people.

Sir, I have referred to the establishment of heavy chemical industry from one point of view. It is important not only from the point of view of industrial development of the country and improvement of the economic position of the people of the province, but also from another point of view, viz., in connection with the question of agriculture and the need of irrigation works. In his statement, the Finance Minister has told us that we cannot have any large-scale irrigation scheme unless the people of the country are prepared to pay for such irrigation schemes. It is in this connection that heavy chemical industry becomes important again. When we remember that today in Bengal the actual agricultural produce may be regarded as solely confined to paddy and jute, and that for almost all other food-stuffs

we depend on other provinces, one may ask, why is it so? On account of lack of artificial manures, pulses, cereals, linseeds and other crops are not now cultivated in Bengal. If we had developed heavy chemical industry, this would have been possible. It is connected with the question of irrigation in this way. Unless agriculture is paying, irrigation schemes may prove uneconomic, and agriculture in Bengal requires artificial manures. This question is important because we find that of the total land surface in Bengal, seventy-one per cent. is arable, and out of that, only forty-seven per cent. is actually cultivated, in other words, out of the total arable area in Bengal only two-third is utilised. Yet the Hon'ble Finance Minister has said that the country is poor and that we cannot expand our irrigation schemes without further taxation! Here is room and necessity for such service. If we have properly planned irrigation work, these lands can be brought under cultivation, I refer to the thirty-three per cent. of land that is not cultivated now, but the Hon'ble Finance Minister asks where will he find money for any irrigation work which may be undertaken from time to time? I have already suggested at least one source from which the money could be obtained. There is only on one account the amount of Rs. 63 lakhs which may be considered as surplus, and if this is capitalised that gives us roughly Rs. 20 crores which would go a long way towards the solution of the irrigation problem of Bengal.

Further, this question has to be faced not from the point of view of making it a money-earning concern of the Government but from the point of view of improving the general economic life of the province. If we allow one-third of the arable land area to lie fallow, are we not wasting potential wealth? The Hon'ble Finance Minister has himself pointed out—there is to-day bad health in many areas, in many areas the population is decreasing, and all this is due to the fact that there is no proper irrigation and drainage work in the country. If these two are properly carried out, without any special consideration and anxiety for the revenue which might be due to the Government, I submit that even as a financial proposition, the Government would gain in many ways.

Then there is the question of retrenchment and I shall refer last to primary education. With regard to the question of retrenchment, I am afraid that the Hon'ble Finance Minister has looked at it entirely from the point of view of the employees of the Government. When we look at the standard of life in our country, it cannot be denied that a good deal of economy is possible by retrenchment in the salaries of higher grades, but though we want to scale down the salaries of the higher grades of service, we do not want to scale down the salaries of the lower grades of service. The total cost of administration may not therefore very much decrease. Nevertheless, the whole question has to be looked at from the point of view of social welfare, social utility and total social happiness and I contend that

even if there be no actual absolute retrenchment in the total cost of administration, still it would be a gain so far as the community is concerned, still it would be a gain so far as the province is concerned, if people could lead a happier life, if people could lead a more human life, and if the state of inequality which we find in the society of to-day is not allowed to exist any more I would go further and say that even though directly there may be no retrenchment, still this would open up to the Finance Minister new sources of revenue, because new groups of people would come within the income-tax limit, new groups of people would make new types of purchases and through customs and in hundreds of other indirect ways, the revenue of the province would ultimately and indirectly benefit.

Finally, I come, Sir, to the question of primary education which in my opinion is absolutely the keystone to the whole structure of provincial improvement. Here, I am afraid, the Government have miserably failed,—I cannot help saying that. The Government have provided for five additional lakhs of rupees, and the total is about thirty lakhs of rupees, for primary education grants to private institutions and individuals or some Government institutions which have undertaken the work of primary education. Reference has been made to the scheme of introducing primary education in Mymensingh and reference has been made to proposals for inaugurating such schemes in certain other districts. All these have been cited in support of what the Government have done for extending primary education in the country. If the District Board of Mymensingh by the utilization of Primary Education Act on their own initiative and by the realization of a special cess educate Mymensingh, it is the people of Mymensingh who are educating themselves. Government cannot claim any credit for that, and in fact, I would submit Government have failed in their duty, because the Hon'ble Education Minister and other members of the Government have openly declared that free and compulsory education without fresh taxation is not only a possibility, but it shall be carried into effect before the year is up. I cannot say that this statement is irresponsible, when it comes from one who is to-day the leader of the Government and the head of the executive of this province. I cannot say that this is an irresponsible statement, when I remember that he made the statement at a time when he had already at a previous period held the portfolio of education and knew what were the possibilities, what were the potentialities, what were the obstacles, what were the difficulties in facing that question. I make bold to say that if the Government had only the will, it could without the imposition of any fresh education cess, introduce free and compulsory primary education for the whole of the province. I may claim, Sir, that I am not given to irresponsible statements in public, and it is with a full sense of responsibility that I say that if this Government wills, it can introduce free and compulsory primary education in Bengal (hear, hear), and

universal literacy will be a reality not in some distant future, but within the course of five or ten years. One or two schemes for finding part of the money, I have myself suggested, not only to the present Government but to the Government which was in power before, and the other day I found that one of the schemes which I suggested to the Hon'ble Education Minister of the time has recently been utilized by the Government of United Provinces. But I would go further and say that even without any special measure, simply by a proper control of the administrative machinery of the Government and of the resources which the executive officers of the districts and subdivisions can command, the Government could solve the question. I would also add that we have had an unexpected increase from the jute export duty which is for us a windfall. This is money which is derived from the labours of the agricultural classes. This is money which is derived from the sufferings and privations of the peasants, and I submit, Sir, that this money should have gone to the amelioration of their condition, to giving them primary education which is not merely a question of literacy, which is not merely a question of giving them the three letters, but is a question of reorganizing the whole rural life of Bengal. We cannot have proper sanitation, we cannot have a proper appraisement of the economic resources of the province, we cannot have a scheme of proper irrigational work and its proper use, unless the people are improved, unless human material is improved as the Hon'ble Finance Minister has stated time and again. But where are the measures which the Government propose for improving this human material? I submit, Sir, that whatever else the Budget may or may not have done, it stands condemned for this one reason that the problem of primary education which is the fundamental problem in Bengal to-day, has not been adequately faced.

With these words, Sir, I urge upon the Hon'ble Minister the necessity of a new orientation in his budget policy.

Mr. KAMINI KUMAR DUTTA: Sir, really it is a happy sign that the Hon'ble Finance Minister in his report at page 36 has admitted that we cannot afford to ignore the fact that it is not an age for a few isolated prosperous men, but for a fairly prosperous multitude. Really this is the principle which he has himself laid down and which we do welcome. This principle ought to permeate the whole of the spirit of the administration. But the budget is to be judged in the light of the fact put down in the Budget itself, whether it has been framed with that object in view. Is it really a Budget to have a fairly prosperous multitude? Rather I would be tempted to agree with the Hon'ble friend of mine who has characterized the Budget as a propaganda Budget. I must admit that behind the Budget there is a very intelligent brain, there is a brain which is fully conscious of the needs of the country, of the problems existing in the country and

which is cognisant of the state of affairs existing in the country. But at the same time one is constrained to remark that that intelligent brain has tried no solution of the problem, but has tried to give a gloss only of extending beneficient activities for the betterment of the people without really a constructive realism. One is tempted to say that the Budget is a timid one. The Finance Minister has appreciated the problems, but he has not dared to tackle them boldly. No doubt in a part of his report he has said "if further taxation is necessary, we must be prepared courageously to impose it. If further expenditure is considered desirable, we must not spare our revenue. If by invoking our legislative powers, we can find a way out of our difficulties, we must be prepared boldly to do so." But at the same time he has added further "but in the last analysis the urge must lie not with the Government but with the people." In this connection one would say that the dictum which he has laid down here that the urge must come from the people and not from the Government, cannot come from the mouths of the Ministers who call themselves popular Ministers. It is not a bureaucratic ministry, but the Ministers are the representatives of the people. They are holding their position through the suffrage of the people. They are backed by the majority of the representatives of the people; so they are the leaders of the people. Why should they shift the burden upon the shoulders of the people? They are the recognized leaders of the people, constitutionally they are the leaders, and it is their duty to face the situation boldly and not to avoid responsibility by saying that the urge should come from the people and not from them. The urge in some of the other provinces of India, the urge in the rest of the world does not come from non-official leaders, but the urge comes from the leaders in the parliamentary bodies where Ministers rule as representatives of the people. So, here I would say that it is merely avoiding the issue. There ought to be a radical change in the psychology, in the ideology of the administartion and the Finance Minister ought to have had the boldness to tap the possible sources of fresh revenues, if it is thought fresh revenues are required to meet the needs of the people. The problem before the country is the betterment of the people and if fresh taxation is required, it ought to be resorted to. But one thing we should bear in mind that the already overtaxed poor people should not be taxed again. In taxation, one is tempted to say, the Finance Minister was overpossessed by the opposition he apprehended from the vested interests. But vested interests would always oppose whenever there is any talk of levy from them. But that objection has to be faced. Bihar has not hesitated to introduce an Act imposing income-tax on agricultural income of over Rs. 5,000. There are some other sources which may appear to be within the scope of the Central Legislature or of the Central Government to tap, but even as to that the provincial Government can impose sufficient pressure upon the Central Government to tap those sources. But I may repeat again that the apprehen-

sion of opposition from the vested interests has curbed the energy of the Finance Minister here. But that should not be so. Let not the poor be taxed, but let not the rich be spared; let not the accumulated wealth of those who simply accumulate and die, be spared. Legislation ought to be undertaken to have a share of the accumulated wealth for the uplift of the poor, for the uplift of the masses. Even in that the ministry would think that they would incur some amount of unpopularity with a particular class of people, but that should not stand in their way. They may take their lesson from other parts of the world; they may take their lessons from the action of ministries in what we call "the Congress Provinces". I do not know if the term "The Congress Provinces" would find favour with the ministry here. There is no reason to find fault with their measures if those measures are really found to be beneficient for mass uplifting. So what I say is that, reading the budget as a whole and looking into the budget as a whole, it seems to be nothing but that an intelligent brain knowing the problem existing in the country tried to apply palliatives only. He has not tried a radical cure. A radical cure we did expect from the Finance Minister; we did expect it from a Minister who is fully conscious of the situation in the country. Now, of course, it is well known that in this House it is useless for us to deal with the particular items. We have no power to say either "Yes" or "No" to the grants. We can only explain our views as to the general principle underlying the grant. First of all it would always be urged that a ministry can only spend according to the receipts, but it is to be remembered at the same time that as to the expenditure the principle, the ideal before a ministry ought to be that of spending the best of the income and the majority of the income in extending beneficient activities for the uplift of the people, not only for the sake of the services. It cannot be gainsaid that the present administrative machinery is a very expensive one. It has been said that over the salaries of the Imperial Services the provincial Government has no control. At present they have no control, but let them begin with themselves. Once they begin with themselves, the Imperial Services would have no face to claim the high salaries they do now claim. They would have to come down in time, but the provincial Government has to begin to mend their own house. As to the Services, it is never my contention to say, the salary of the poor people should be curtailed, but that is no reason why the principle, which has been accepted and is going to be accepted in some of the other provinces should not be followed here, *e.g.*, in Madras, it has been decided that there should be curtailment as to the new entrants at least of salaries drawing over Rs. 100 and a reduction of a very substantial portion in those much enjoyed salaries of over Rs. 500 and that would bring some money at least for being paid to the beneficient activities. So the provincial Government should not take shelter only under the plea that they cannot touch the higher Imperial Services. We cannot

touch now, but once you begin to have your house mended, time will come when we shall have the power.

The Hon'ble Mr. NALINI RANJAN SARKER: A time will come no doubt, but I have never denied that.

Mr. KAMINI KUMAR DUTTA: To mend our house and those Imperial Services would have to come down. The Finance Minister knows everything and he has full appreciation of the situation. As to that, I have not the least doubt. Only in some important points he has disappointed the House. Knowing the full situation he has lacked the courage and the boldness to place the people's budget before the House. Now the Finance Minister in his report has said that we cannot touch the currency, credit and the tariff. These are all central subjects; certainly we cannot, but certainly the provincial Government can balance the rural credit that is a subject within the province of the Government. As to that also, we did not find any broad policy enunciated in the whole of the budget for the balacing of the rural credit. Now as to the various items, I will touch only a few of them. First of all, I would refer to rural indebtedness. Really it is a very important problem. It cannot be denied that the tenantry in this province has got more debts than in any other province. It appears that provision has been made for the extension of Debt Conciliation Board. I have nothing to say on principle. As to the principle of Debt Conciliation, debts have to be consiliated; debts have to be scaled down, but whether simply the increase in the Debt Conciliation Boards would bring in that state of things which would really lead to the solution of the problem is the point. Is not one, who knows the state of the country, led to cry that simply the inauguration of the Debt Conciliation Boards without any definite principles being laid down as to how they should work, has only led to a sort of, one may call, the judicial deadlock? It has not really reduced the debts of the debtors; it has not really helped the clearance of debt, but only the judicial proceedings have been stayed. It is nothing but a stalemate created. The stalemate is not to relieve the debtors, even the reduction of interest or the reduction of the amount of debt would not give the real relief. There also a bold principle ought to be adopted. In Madras it appears, a committee appointed for the purpose did give the opinion that "let there be a moratorium for a fixed period, and within that period let there be propaganda in the province by workers employed by Government teaching the people and inculcating in them the principles of economy, telling them to store up some of their savings in order to pay off the debts and the debts would be scaled down". Really this problem is being simply tinkered at. As one who has experience of the rural area, one who has the experience of the condition of the debtors and the lenders, I can well say that we who live in the rural

area have some conception about it, have some practical touch both with the debtors and the lenders. The Debt Conciliation Board has not really been able to create a spirit, the real spirit which is wanted for the settlement of the debts between the creditors and the debtors. Only this Act has been utilized for the purpose of staying the hands of the Courts for the time being, but that is not a solution of the problem. I should not be understood to say that I am pleading for the creditors. Even if the entire debt of the peasants could be wiped out, I would not object to it. Let it be wiped out by all means; that would not affect the province. What I am most anxious about, is that an effective system of rural credit ought to be established. Peasants cannot do without incurring debt. So, the problem before the province is really one of establishing a perfect system of rural credit in the province which would come to the aid of these indebted peasants at the time of their need. We do not find, Sir, any definite policy laid down in the Budget speech of the Hon'ble Finance Minister for this purpose. There is a talk of utilizing the Co-operative Societies to this end. I must admit that Co-operative Societies, if they are worked on the true principles of co-operation, would work well and would be of help in serving as credit societies to the cultivators. But it must be said that the Co-operative Department, so far as its work is concerned, has been a dismal failure—even the Governor of the Reserve Bank has remarked that it has been a failure. That it has been a failure is the experience of anyone who is in touch with it, and it appears to us, who have actually seen the work of these societies, that there is nothing in their programme but an effort to preserve the posts of a few people who do not understand the principles of co-operation. This Co-operative Department has been thrust on the people of this province by persons who do not understand the true principles of co-operation at all. So, it is not Co-operative Societies of this character which will be of any use to the people of this province; we want that Co-operative Societies, imbued with the true spirit of co-operation, should be established and worked by workers who know the principles of co-operation and who are not mere job-hunters.

Now, Sir, it has been said that experts would be sent to Denmark for the purpose of introducing new ideas in the Co-operative Department. But what has happened to Nicholson's report of 1895—which is a very comprehensive report about co-operative movement? Was it ever accepted? Has the Co-operative Department ever been worked on the principles laid down in that report? Anyone who goes through this report will find that there are enough materials in it, which if worked upon, would help us in resuscitating the Co-operative Societies and in establishing real Co-operative Credit Societies all over the province. I myself have no knowledge about the working of Co-operative Societies in Denmark, nor have I had any opportunity of looking into the books dealing with this subject. I tried to get books

from the Imperial Library but was told that the only book available had already been issued to the Hon'ble Finance Minister. Perhaps, the Ministers themselves are studying the subject for the first time in order to understand what is the system that prevails in Denmark.

The Hon'ble Mr. NALINI RANJAN SARKER: I will send you the book to-morrow. I have got a copy of my own.

Mr. KAMINI KUMAR DUTTA: I was told that the book was with the Hon'ble Finance Minister.

As to the existing Co-operative Societies, I might say that the people think that they exist for the single purpose of supplanting the Mahajans. That should not be the only purpose which these societies should have in view. There should be multiple purposes—not only for aiding the people with financial help in times of need but for supplying them with information so that they could place their agricultural operations on a scientific basis, and also for organizing the different branches of agriculture such as purchase of machinery, supply of seeds, etc. So, this Co-operative Department has a very wide scope no doubt, but, as I said at the very beginning of my speech, that it is the real spirit of co-operation which should govern co-operative movements. Let it not be said of the Budget that it is covered with a showy gloss; let there be a reality behind these co-operative movements.

Now, Sir, an hon'ble friend of mine was suggesting to me that in the Budget there was mention of the total abolition of the Tobacco Tax. We all welcome it. Tobacco is a luxury of the poor, and all principles of taxation lay down that taxes should be imposed on the vested interests and not on the poor masses. With the abolition of this tax on tobacco, which we hail, there is likelihood of a drop in the revenues of this province. But I would suggest that we might impose a small tax on tea. What I am suggesting is not a tariff duty on tea, but some sort of a small internal tax on consumers in the province. It will certainly bring in some income, but it will not affect the poor people. Really, the whole Budget starts with the proposition that we have *this* fixed revenue and we have *this* fixed expenditure, and we have given only a few doles here and there for beneficient activities,—that should not be the principle for budgeting. Revenues should be increased, if necessary, by law. The present system of having receipts from different heads should be so altered as to give relief to the poor. As regards expenditure, it should be chiefly for the benefit of the poor, and not for replenishing the coffers of those in service and who are already drawing fat salaries.

Now, Sir, as to jute it appears that there is a sort of half-way-house scheme in the Finance Minister's Budget speech. Jute is the

basic agricultural product of the province; it brings in a considerable portion of the income of the people. Now, for the regulation of the trade in jute the only thing suggested is a sort of voluntary restriction. By restriction is meant growing less, but is there anything suggested in the whole of the Budget speech how the cultivators are to utilize the "vacant" lands, over which cultivation of jute should cease? What is the new crop suggested for these released lands? Has the Department of Agriculture any scheme in regard to this matter? It must suggest some sort of substitute for jute. The poor people cannot allow their lands to lie fallow. This restriction alone will not suffice; there ought to be marketing boards in addition. It is really the problem of marketing which is the problem of problems, so far as jute is concerned. There ought to be some sort of organization with State aid to regulate the trade, and there ought to be scientific research for the improvement of jute. It is well known to those who are in the trade that there are different grades of jute, and that the prices vary very much according to quality, but the cultivators have never been taught that strains of jute can be improved. There are no propagandists sent out by the Agriculture Department for teaching them how the quality of jute can be improved. There ought to be scientific research, as I have already said, and money ought to be spent in order to propagate among the people, I mean the cultivators, ideas as to how the quality of jute can be improved, and how the best varieties of jute can be grown. This propaganda should be carried on intensively in every nook and corner of the province—in every subdivision, in every thana, and in every union board. At present, there is no constructive propaganda laid down in the Budget which would encourage any hope that Government contemplate doing anything in this respect.

Now, as to education, which is the most important of all subjects, it has been said by the Hon'ble Finance Minister that ignorance ought to be removed from the people. No doubt ignorance is the greatest impediment to the propagation of any useful knowledge to the people. But education should be spread in the spirit of imparting a real education to the people. A very large percentage of our people are illiterate and literacy is no doubt required. But literacy alone will not do in this modern world of ours. They ought to be given knowledge in the villages as to how to work machines. Ordinary mechanical knowledge should form part of their education. Machine-sense should be infused amongst the people. This is being done all over the world. Industry, Sir, is not now confined to the urban areas only. In other countries we find that industries have been fostered in the rural areas as well, and this is possible only when the people of the country are taught the working of the machinery and when machine-sense is inculcated amongst them. But it appears that the Hon'ble Finance Minister gloats over the fact that 10,000 people

would be engaged in a scheme for training teachers, etc. But side by side with that, we may think of another scheme in another province, where 12,000 people have been employed by the Government of Central Provinces for the reconstruction work of villages. Ninety villages have been assigned to each of the workers not only for the purpose of imparting primary education but for teaching them in all the elements of the modern world, in uplifting their condition, in propagating real knowledge to the people at a very moderate cost. I looked into the Budget of that province and I found that the estimated cost is only Rs. 4 lakhs—12,000 people have been employed in the entire province for the village uplift work at a cost of Rs. 4 lakhs —the idea itself is a noble one: that would create a different atmosphere in the province, but here the whole objective is different. Here we do not look to the people who are really the object to be served. The objective should be the betterment of the people whose representatives we are and whose representatives the Ministers are.

Now, Sir, in connection with education, as to primary education, it has been so lucidly dealt with by an hon'ble friend of mine that anything which I would say would be mere repetition. It is really want of primary education which keeps the people in blindness. As to taxation on education, it would appear that over the whole of India the question is being agitated that there can be education without the paraphernalia of an expensive machinery. It appears that our Ministry did not think it worth while to devote a minute to consider whether education can be imparted without much expenditure as is being done in other parts of India. It is a very important problem not only for Bengal but for the whole of India. Why not have the whole question tested and judged and why not instead of giving Rs. 5 lakhs only for a few teachers and providing for a few *bhadralog* youths, have the whole system looked into and find out whether with this five lakhs of rupees real education can be imparted without simply doling out small remuneration to some of the employees. So here also we find there is absence of a radical change of psychology and idealogy. There is not that outlook that education should be given with the least expenditure: education must be given and it is the crying need of the province.

Now, as to the grant to the Universities, I find that the Calcutta University has been rather given a step-motherly treatment. I do not want to say that the Dacca University should not be given that amount which has been allotted to it. Let it have more by all means; but one of the premier Universities of India should not be provided with such a scanty grant.

I find that there is another item, namely, a purdah college. I should not be understood to oppose it, but individually I should think it a retrograde step to have a purdah college in this century.

However, if there are people in this country who think that a purdah college is still required, let them have it. I do not oppose it. But as I have already said, I am individually opposed to it. Side by side with that, the question of Bethune College will have to be considered. No doubt there is a proposal that the Christ Church College building should be amalgamated with it: it was purchased long ago; every one knows that there is no Honours class in B.Sc. in the Bethune College. That building ought to be utilised for providing accommodation for science classes, and the grant should be increased to the Bethune College, the premier college for females and an additional grant is required for having a science Honours class introduced in this college.

With regard to the purdah college, it appears that some amount of difference of opinion exists, but I should not be misunderstood when I say that the teachers and professors in the purdah should not be ladies only. Even in the Bedford College services of male teachers and professors are requisitioned. If you want real teaching—I mean higher teaching—I do not think you can have that by employing lady teachers and lady professors only. The services of male professors and teachers should also be required. By saying this I do not mean any disrespect to the lady teachers and professors.

Now, as regards Police Budget, we find there is an increase in the secret service. Suspicion is at once roused in the minds of the people that though there is release of detenus, there is increase in the secret service. What for? Is it in order to watch over those released detenus? So one would be tempted to think that there is want of *bona fide* in this act of release. They have been released on the assurance that they have all abjured violence. Then what is the good of setting up watchers behind them? That takes away the grace of the whole release. One cannot understand why after the release of detenus there is an increase in the amount of expenditure on secret service. On analysing the Police Budget another thing appears to be very peculiar. There was a grant previously for temporary officers in the secret service and the C. I. D. service. All these temporary men have been made permanent. So instead of retrenchment we find a permanent increase in the expenditure. Whenever any question of retrenchment will be raised, the reply will be readily given that so many people cannot be deprived of their bread. It is very nice—temporary officers have been replaced by permanent officers.

Now, as regards Calcutta Police, it appears that the services of what they call sergeants—apparently European officers—have been provided for. I do not find any utility of retaining this well-paid officers. Look at their pay: a sergeant gets more than what is even drawn by a Sub-Inspector of Police. Is he more competent than an Indian Sub-Inspector of Police. It is a matter to be considered whether these

sergeants ought any further to be retained. As to the qualification—what is their education: the only reply would be it is "nil".

Now, turning to jail, the modern tendency of all jail administration is this: the real object of incarcerating in jails would be this, that whenever people would come out of the jail they would be honest citizens of the province. In the jail one principle is adopted all over the world. It is this: that the jail administration should be industrialised; the prisoners working in the jail should be taught industries to bring money to the coffers of the State. They should not be employed on humiliating work such as driving of oil mills or other mills but they should be taught useful industries which would not only bring money to the Government, but enable them to earn their livelihood when they come out of the jail. So the outlook of the jail administration should be changed and that there ought to be a reduction in the jail population, cannot be questioned for a moment.

As to the agriculture and industry, I need not refer back as they are really connected with the co-operative societies, with rural indebtedness problems and with the problem of affording better facilities to the cultivators to get proper price for the commodities they produce; only helping the production will not do.

The system of agriculture which at present exists in the country is not one upon which the people can any longer live. It cannot be gainsaid and denied that already the burden on agriculturists is too heavy, but at the same time agriculture is of the most crude type. There ought to be scientific improvement. It cannot be avoided, it cannot be postponed. No postponement is possible on that problem. Postponement will bring in a state of revolution which has been envisaged in the report of the Hon'ble Finance Minister. Hunger after all is the direct enemy of administration and hunger may drive people to any drastic step which one may not dream of.

As to industry, no doubt it has been said that private capital should be invoked, but may I ask the Government is there any country in the world where little-sized industries and some of the biggest industries prospered without State aid? Small industries cannot prosper without State aid. The State ought to organise credit societies all over the province to foster trade. For bigger industries financial aid should be given, otherwise they cannot prosper. It cannot be denied that industrial improvement is practically the only solution for the solvency of the province. Agriculturists are overburdened and industries alone can bring relief to the unemployed middle class people. To this problem of industrial improvement proper attention ought to be given. It appears that there has been tinkering here and there and it has been said that people of the province do not respond but they do not respond unless they see that State aid has been given. When capitalists find

that State is financing a big industry, they will come forward with their money. It is the State which ought really to rouse the business instinct of the people and our Finance Minister who has got sufficient experience in the business line must not tinker with the main problem of the country.

Mr. J. McFARLANE: I rise to tender my congratulation to the Hon'ble Minister on the success he had achieved in managing the financial affairs of the province during the current year and particularly in view of the fact that he had actually been in office for only six months or so. I would further like to congratulate him on the very comprehensive Budget he has prepared for the coming year and for the very clear and businesslike way in which he has set forth his proposals. I think as a businessman and as a Chartered Accountant the Finance Minister's attitude of conservative finance has to be very highly commended. Without offering detailed observations on his proposals, we, the members of this group, welcome his proposal to spend about a crore of rupees or so on what are described as nation-building departments.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Mr. President, Sir, I have gone through the Budget presented to us by the Hon'ble Finance Minister on Friday last, with mixed feelings of gratification and disappointment. It is gratifying that he has tried to meet some of our demands which were expressed during the last budget discussion, by allotting additional grants for Education, Public Health, Agriculture and Industries, but I am disappointed to find that the Budget does not reveal inauguration of any new policy nor initiation of any economic programme for the mass-uplift in spite of financial affluence.

Sir, when the Budget was presented last year, we were told there would be a surplus of thirty-four lakhs of rupees, but from the opening balance of this year it is found, that as a matter of fact, we will have a surplus of Rs. 1 crore 90 lakhs. Out of this if 49 lakhs of rupees which is the minimum balance required to be kept in the banks and treasuries be deducted, we get Rs. 1 crore 41 lakhs as available balance. The Budget as framed shows that out of this surplus of Rs. 1 crore 41 lakhs, only 15 lakhs of rupees is proposed to be spent this year, leaving an unspent balance of Rs. 1 crore 26 lakhs. There are some impending liabilities to which the Minister refers but even then according to him he will have about a crore or 1 crore 20 lakhs of rupees (if four of the new taxes are revived) as net surplus. In justification of keeping such a huge surplus the Hon'ble Minister has treated us with a sermon on "caution" and in the justification of his not taking any action to reduce the pay of services, he has told us that there being no emergency now, no cut or retrenchment could be justified. Sir, the Hon'ble Minister may be content with his surplus budget by merely squaring the balance

and providing for meeting the monetary liabilities, but he ought to know that he, as a responsible and popular Minister, has also got to meet other liabilities and more pressing liabilities of an unlimited nature—I mean the liability of liquidating the appalling poverty and illiteracy of the mass. I am sorry, Sir, I have to use strong words as I do feel for my starving brethern in rural area and specially because they are inarticulate and their inability to speak is not unoften mistaken as a criterion that they have nothing to complain and nothing to ask for.

Sir, if the Hon'ble Finance Minister had been pleased to look at his liability from my point of view, he would not have complacently remarked that there was no emergency now for cuts and retrenchments. Sir, from unassailable Government statistics I have calculated and found that the average annual earning of a Bengal cultivator is only Rs. 30 per head and if the 20 per cent. at the top who are in affluent circumstances be left out, the remaining 80 per cent. will not have even 20 rupees per head per annum. The agricultural labourer has only 15 rupees per head and ordinary day labourer only 12 rupees per head per annum. Just consider, Sir, how a human being can subsist from Re. 1 to Re. 1-8 or so per month and yet, that is all with which 80 per cent. of Bengal's agriculturists and all its labourers have to be content with. Sir, Government of Bengal spends Rs. 41 per head per annum on dietary and Rs. 4-12 per head on clothes of a prisoner in jail, but 80 per cent. of the rural population of Bengal cannot get more than 20 rupees per head per annum. And yet there is no emergency for cuts and retrenchment and no necessity even for spending the huge surplus in revenue which has come directly or indirectly from the starving millions. This is certainly not the attitude we could expect from a popular ministry. Sir, the outlook of a banker while framing his budget must be different from that of a statesman. A banker may be content by merely squaring his accounts but a statesman will not only utilise every pie he can afford, but will even incur debts and impose tax for national regeneration. I for one, Sir, cannot congratulate the Bengal Ministry on their presenting a surplus Budget when I find that they have provided nothing for unemployment insurance, nothing for any aid to the poor, and ridiculously low amounts for the wealth-producing departments of Agriculture and Industries. Provision has been made for agricultural debt settlements and for the pay of a Director of Rural Reconstruction but no provision has been made for agricultural banks nor any for rural development staff. Debt settlement without agricultural banks will mean surrendering the agriculturist again to the tender mercies of the moneylenders or perhaps, non-agricultural land exploiters who will be only too ready to pay money for purchasing lands. Similarly rural development without a staff is impossible. The United Provinces have appointed a whole host of staff for rural reconstruction. I had submitted a

modest scheme, in which I had proposed experiments in one thana of each subdivision only, but the Hon'ble Minister in charge of Agriculture was pleased to tell me that he had an excellent scheme which he would soon put forward but, Sir, we do not know when it will see the light of day. In any case the establishment of Debt Settlement Boards without agricultural banks and appointment of a Director of Rural Reconstruction without staff reveals lamentable lack of imagination and foresight and it is all the more regrettable because the Hon'ble Ministers do not care either to take the members of the House into confidence or even to consider the unsolicited suggestions and schemes submitted by them.

Sir, the Finance Minister after treating us with a sermon for not sacrificing efficiency for retrenchment—the old stereotyped argument of bureaucratic days—adds insult to injury when he makes provision of two lakhs of rupees (and the two lakhs will be recurring for ever) for additional recruitment to the Bengal Civil Service and additional staff for Commissioners and Collectors' offices. We are crying for economy and demanding retrenchment, while he has been merrily augmenting the general administrative staff. This is how, Sir, we are treated by our responsible Ministers.

I now, Sir, proceed to examine minutely the provision made for the Agricultural and Industrial Departments in which I take special interest. Sir, including the additional grant of Rs. 4·6 lakhs for the Agricultural Department and Rs. 4·5 lakhs for the Industrial Department, the grants for those two wealth producing departments come to 16·2 lakhs and 20·6 lakhs only, which any reasonable man will consider to be ridiculously low for the huge province of Bengal of which some single districts are equal to some independent European countries. The proper solution of the entire *Dal-Bhat* or bread problem of the country rests on the proper working of those departments, but, Sir, these departments are treated almost in as niggardly a way as before and this indicates that our popular Ministers have no regard for popular demand and no real anxiety for the appalling proverty of the mass. We are again in this connection treated like boys and told that nothing spectacular can be expected overnight. Sir, we are not boys, we are grown up men; as responsible men we are wide awake and keep some information about world movements, world economics and world politics. If Germany and Turkey could show phenomenal advance within ten or fifteen years even after the effect of the deadliest of wars, why should not Bengal be able even to make an appreciable beginning in the path of advancement and progress? We must benefit by the example of more advanced countries and must move with the times and must not follow the time-worn antiquated policy, if we are to show any real progress within a reasonable time. Though we should be cautious—reasonably cautious—not to incur heavy liabilities for the future, we must be enterprising and optimistic and should not be

frightened by the phantom of risk. A boy would never learn walking or riding if he were constantly reminded of the risk of a fall. "No venture no gain."

Mr. PRESIDENT: Order, order. May I know if you will be able to finish your speech in a couple of minutes or would you like to resume your speech to-morrow?

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I will take, Sir, ten minutes to finish my speech.

Mr. PRESIDENT: Then you can continue to-morrow. I shall now adjourn the Council, till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Tuesday, the 22nd February, 1938.

Members absent.

The following members were absent from the meeting held on the 21st February, 1938:—

(1) Jan, Khan Bahadur Shaikh Muhammad.

(2) Esmail, Khwaja Muhammad.

(3) Chowdhury, Mr. Khorshed Alam.

(4) Hossain, Mr. Mohamed.

(5) Lamb, Mr. T.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Tuesday, the 22nd February 1938, at 2-15 p.m., being the thirteenth day of the First Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Release of Repatriated Andaman Prisoners.

177. Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether the question of release of repatriated prisoners from the Andamans is engaging the attention of the Government; and

(*b*) if so, whether these prisoners will be released in the near future?

The Hon'ble Mr. H. S. SUHRAWARDY (on behalf of the Minister in charge of the Home Department): Government are at the present time, prepared to consider the release of such prisoners only in the cases of those who for special reasons, such as, for instance, serious and continued illness or the short period of their sentence remaining, combined with a record of good conduct in jail, may be deemed fit for release on the individual merits of the case. It is hoped that if the situation continues to improve, it will be possible for Government to scale down any sentences of exceptional severity wherever circumstances justify the exercise of such clemency.

Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister be pleased to state if the Government is prepared to consider the release of prisoners as indicated in his answer? May I know what stands in the way?

The Hon'ble Khwaja Sir NAZIMUDDIN: Nothing stands in the way.

Mr. NARENDRA CHANDRA DATTA: Are we to understand then that the prisoners are being released?

The Hon'ble Khwaja Sir NAZIMUDDIN: They have been released.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether it is a fact that Dr. Bhupal Chandra Bose has been suffering from tuberculosis for a long time?

The Hon'ble Khwaja Sir NAZIMUDDIN: Quite: the enunciation of this policy does not mean that every prisoner, irrespective of all other consideration, is going to be released.

Mr. LALIT CHANDRA DAS: The answer given by the Hon'ble Minister is—"Government are, at the present time, prepared to consider the release of such prisoners only who for special reasons, such as, for instance, serious and continued illness——

Now, my question was—if it is a fact that Dr. Bhupal Chandra Bose has been suffering from tuberculosis for quite a long time, and whether Government are prepared to release him now?

The Hon'ble Khwaja Sir NAZIMUDDIN: This is an act of clemency and the Government reserve to themselves the discretion to use this clemency in suitable cases on the principle enunciated in my reply.

Dr. RADHA KUMUD MOOKERJI: Will the Hon'ble Minister be pleased to state whether Government are prepared to consider the question of the release of political prisoners on the ground of any principle and not on the mere ground of illness or of expiry of the period of their sentences?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have nothing further to add as regards Government policy with regard to the release of political prisoners beyond what is stated in my reply.

Dr. RADHA KUMUD MOOKERJI: I am afraid that the answer given is not the reply to the question I have asked. My plain question is—in view of the importance that has been attached by several other Provincial Governments as well as by the Government of India to the supreme question of the release of political prisoners on principle. I wish to know whether the Government of Bengal are prepared to consider this question from the point of view of principle. I want them to commit themselves on this question of principle.

The Hon'ble Khwaja Sir NAZIMUDDIN: I submit to you, Sir, that reply to a question like this cannot be given.

Mr. LALIT CHANDRA DAS: May I enquire whether Government are prepared to exercise the clemency, as stated in his printed reply, in the case of Dr. Bhupal Chandra Bose who has been suffering from tuberculosis for a long time and who is hanging between life and death?

The Hon'ble Khwaja Sir NAZIMUDDIN: This does not arise out of this question. It is a question of policy and not of individual cases.

Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister be pleased to state how many political prisoners have been released up to date?

The Hon'ble Khwaja Sir NAZIMUDDIN: I am sorry I have not got all the figures, but I think it is well over eight at least.

Mr. LALIT CHANDRA DAS: Sir, may I have your ruling whether I am entitled to ask a specific question in respect of a specific prisoner arising out of the general policy enunciated in the answer?

Mr. PRESIDENT: You can put a supplementary question arising out of the reply that has been given by the Hon'ble Minister.

Mr. LALIT CHANDRA DAS: My question is whether in view of the fact that Dr. Bhupal Chandra Bose has been suffering from tuberculosis for a long time and is hanging between life and death, Government are prepared to exercise their policy of clemency just now enunciated.

Mr. PRESIDENT: The question does not arise from the reply just now given. If you want a particular information, you are to put a separate question.

Money spent on education.

178. Mr. NUR AHAMED: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state what is the total amount of money spent on education from the revenues of Bengal during years 1933-34, 1934-35, 1935-36 and 1936-37.

(*b*) How much of this sum was spent for the benefit of—

(*i*) Moslem students;

(*ii*) non-Moslem students; and

(*iii*) inspection work during the above years, respectively?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Minister in charge of the Education Department):

		Rs.
(*a*) 1933-34	... ...	1,29,58,000
1934-35	... ...	1,31,26,000
1935-36	... ...	1,34,37,000
1936-37	... ...	1,35,72,000

(*b*) (*i*) and (*ii*) With the exception of a few special institutions reserved for particular communities, educational institutions are open to all: it is not therefore possible to indicate the total amount spent for the education of any particular community in any year.

(*iii*) The amounts spent from Education budget were—

		Rs.
1933-34	... ...	11,65,000
1934-35	... ...	11,45,000
1935-36	... ...	12,00,000
1936-37	... ...	12,14,000

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state what is the average amount spent on European students per head? ...

The Hon'ble Khwaja Sir NAZIMUDDIN: This does not arise out of the question.

Mr. HUMAYUN KABIR: With regard to answer (*b*) (*iii*), will the Hon'ble Minister be pleased to state what other amounts, if any, are spent from any budget other than Education for the purposes of inspection?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I cannot say off-hand. I must have notice of this question.

Adjudication of Mr. Ahmed Mohammed Paruk.

179. Mr. HUMAYUN KABIR: (*a*) Will the Hon'ble Minister in charge of the Judicial and Legislative Departments be pleased to state whether it is a fact—

(*i*) that on Mr. Ahmed Mohammed Paruk was adjudicated an insolvent by the Hon'ble High Court on the 12th August, 1936, at the instance of a creditor and his property vested in the Official Assignee of Calcutta, and that one Mr. Santosh

Kumar Dutt was appointed "Special Manager" by the Hon'ble High Court on the 15th March, 1937, and he joined his post on the 14th May, 1937;

(*ii*) that Mr. Santosh Kumar Dutt was directed by the Official Assignee to engage both "sadar" and "*mufassil*" staff by a letter No. 2577, dated the 28th May, 1937, and that he engaged "*mufassil*" staff on the 11th June, 1937, and communicated the names to the Official Assignee on the 17th June, 1937, and the "sadar" staff on the 1st July, 1937, and communicated the names on the 2nd July, 1937;

(*iii*) that on the 8th July, 1937, the Official Assignee gave a direction to the Special Manager to discharge some of the staff engaged by him as the Official Assignee had information that these were "undesirable" and the Special Manager wrote to the Official Assignee enquiring about the information on which the Official Assignee had been led to think that the persons engaged were "undesirable";

(*iv*) that the Official Assignee wrote in reply to the Special Manager that his letter was an act of "insubordination" and his action was one of "flagrant disobedience" and the Official Assignee made a petition to the Hon'ble High Court for termination of service of the Special Manager on the grounds of "insubordination" and "flagrant disobedience"; and

(*v*) that this petition was heard by the Hon'ble Mr. Justice C. C. Biswas who exonerated the Special Manager of all blame, finding therein that the petition of the Official Assignee had no justifying grounds?

(*b*) If so, will the Hon'ble Minister be pleased to state whether there are any prescribed rules which the Official Assignee must follow in conducting the business of the estates placed under his charge? If so, do Government propose to place a copy on the table of the House?

The Hon'ble Mr. H. S. SUHRAWARDY (on behalf of the Minister in charge of the Judicial and Legislative Departments): (*a*) (*i*) Yes. The Special Manager was appointed on the application of the Official Assignee.

(*ii*) to (*iv*) The questions contain the facts as alleged by the Special Manager in the High Court.

(*v*) Yes, the learned Judge did so find.

(*b*) There are no prescribed rules relating to persons temporarily employed by the Official Assignee in liquidating the assets of an estate. In this case the appointment of Special Manager was made by the Court and at the desire of the Court he resigned.

Estate of Mr. Ahmed Mohammed Paruk.

180. Mr. HUMAYUN KABIR: (*a*) Will the Hon'ble Minister in charge of the Judicial and Legislative Departments be pleased to state whether it is a fact—

(*i*) that the Hon'ble Justice Mr. C. C. Biswas in the interest of the estate of one Mr. Ahmed Mohammed Paruk, an adjudicated insolvent, which was placed under the charge of the Official Assignee advised the Special Manager of the said estate, Mr. Santosh Kumar Dutt, to resign but awarded him due compensation and costs for being forced to resign by the conduct of the Official Assignee and at the same time the Hon'ble Judge reminded the Official Assignee that he was a "public officer and not a private employer who has no responsibility except to himself"; and

(*ii*) that the Special Manager resigned on the 13th September, 1937, and was relieved from his duties on the 19th September, 1937, and immediately after Mr. Dutt's relinquishing his charge, the Official Assignee discharged some of the men appointed by the said Special Manager, on the ground that they were undesirable men?

(*b*) Has the Official Assignee been given any power to dismiss any man as being undesirable without showing any reasons as to how and in what way are they undesirables?

(*c*) Will the Hon'ble Minister be pleased to state whether there are any set of prescribed rules for the guidance of the Official Assignee and, if so, whether the Official Assignee followed such rules in conducting the business of the estates of adjudicated insolvents and other estates placed in his charge?

(*d*) Will the Hon'ble Minister be pleased to enquire if the present incumbent of the post has been conforming to the rules and regulations in force for discharging his duties during the period he has been acting as a probationary Official Assignee? If not, what steps does the Hon'ble Minister propose to take against the said Official Assignee for not discharging his duties in accordance with the prescribed rules and regulations in force for his guidance? If there are no such rules, does the Hon'ble Minister propose to frame such rules for future guidance of the Official Assignee; if not, why not?

The Hon'ble Mr. H. S. SUHRAWARDY (on behalf of the Minister in charge of the Judicial and Legislative Departments): (*a*) (*i*) The learned Judge said, "Learned Counsel for Santosh Kumar Dutt has prayed for some compensation on behalf of his client. This is a

reasonable prayer. Although his services will be terminated by acceptance of his resignation, I think, in the circumstances, he should be paid by the Official Assignee one month's salary as compensation. This will be paid out of the insolvent estate", and the judgment also includes the remark quoted in the question.

(*ii*) and (*b*) The Official Assignee had not sanctioned their appointment and he did not retain them as he did not consider them suitable.

(*c*) The Bengal Subordinate Services (Discipline and Appeal) Rules, 1936, apply to his permanent staff and these are observed and followed by him.

(*d*) There are no prescribed rules relating to persons temporarily employed by the Official Assignee in liquidating the assets of an estate and Government do not consider it necessary or desirable to frame any such rules.

Mr. NAZIRUDDIN AHMAD: Will the Hon'ble Minister be pleased to state if the incumbent is a Bengalee?

The Hon'ble Mr. H. S. SUHRAWARDY: He is not.

Mr. NAZIRUDDIN AHMAD: In view of the fact that a sufficient number of Bengalee lawyers are available, will the Hon'ble Minister be pleased to consider the desirability of appointing a Bengalee to this post?

The Hon'ble Mr. H. S. SUHRAWARDY: The question of the appointment of the Official Assignee is not now before the Government and is not likely to be before them for a considerable time.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state whether the present incumbent has been appointed permanently?

The Hon'ble Mr. H. S. SUHRAWARDY: I am not aware of it, and I want notice. So far as my impression goes, he is still temporary.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state why he did say that the question is not likely to arise for a long time to come?

The Hon'ble Mr. H. S. SUHRAWARDY: The Official Assignee apparently has been doing his work properly. This is not the first time that he is acting in this post. It is a fact that he has been re-appointed as there is justification for his re-appointment.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state if the answer does not indicate that he has not been acting properly in this particular case?

The Hon'ble Mr. H. S. SUHRAWARDY: That is a matter of opinion. The Judge is entitled to hold views which are contrary to that of the Official Assignee.

Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister be pleased to state if the judgment of the High Court is not binding upon the Government?

The Hon'ble Mr. H. S. SUHRAWARDY: Government is no party to the judgment of the High Court; but in any event the result has been that Mr. Santosh Kumar Datta has got one month's salary as compensation.

Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister be pleased to state if the Government is not prepared to pay sufficient regard to the judgment of the High Court?

The Hon'ble Mr. H. S. SUHRAWARDY: Government has paid sufficient regard to the judgment of the High Court.

General Budget Discussion.

Mr. PRESIDENT: The House will now resume further general discussion of the budget.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I continue my speech of yesterday. I have said that we should not forget the proverb "no venture no gain." For various reasons, the enterprising instincts in us have died out. It is now the sacred duty of the State to bring them back to life by pioneering big and small industries of various kinds and for this crores of rupees must be found not only by retrenchment but also by fresh taxation on those who are able to bear them. For the Agricultural Department Rs. 1½ lakhs has been provided for improvement of cattle out of Viceroy's grant, but then there is again a lack of imagination in not providing any money for extension of pasture and introduction of fodder crops and grass, which ought to go hand in hand with cattle improvement scheme. As regards agriculture, we have the valuable report of the Royal Commission on Agriculture which was presided over by our present Viceroy, and it should have been examined carefully and schemes drawn up in accordance with its recommendations and necessary provision made in the budget. We like to have the whole of Bengal surveyed with a view to introduction of planned agriculture and reclamation of waste lands and lands producing little or no crops owing to lack of irrigational

facilities and protective embankments. We should have made a beginning in this direction and made some provision for it in the budget. We should have made provision for extensive production of departmental seeds with a view to their introduction in the nook and corner of every union and village reconstruction work. We should have provided some money for free distribution of scientific manures with a view to popularising them. We should have got a regular scheme dealing with all these and kindred matters and should have a definite programme of five or ten years for giving gradual effect to them. In fact, Sir, instead of random works and random schemes for minor items such as egg grading or jute grading, we should aim at organised campaign and attack from all directions simultaneously and immediately as suggested by the Royal Commission on Agriculture.

Similarly, for industrial regeneration we should have tackled with the problem of supplying supplementary labours to the agriculturists during off-season. We could provide in the budget for distribution, on hire system, of the automatic weaving machines which have become so popular in Baburhat of Tippera district, but about which no information is kept by the Industrial Department of the Province. We could also find out from the Director of Commercial Intelligence what raw materials are exported from Bengal which come back again as finished articles, and could provide money for training of a hundred Bengalee youths in foreign countries for learning the art of manufacturing such articles and we could also provide money for entering into contracts with foreign manufacturing firms and experts for coming to Bengal and teaching the manufacture of particular articles such as bicycles, motor vehicles, etc., etc. We could provide for hundreds of scholarships for popularising cottage industries in every nook and corner of rural Bengal. We could provide for encouraging local enterprise by setting apart some money for State purchase of shares, or State grant of subsidy. We should have got a regular, comprehensive scheme for all these and connected works to be completed in five or ten years with a definite programme for each year. We have no doubt been told of a five years' scheme by the Hon'ble Minister in charge of Industries, but the scheme has not yet seen the light of day and we may not be surprised to find it drawn up in the old stereotyped way only with the heading of a five years' scheme without indicating any definite line of policy and without showing what was expected to be achieved each year.

I shall cite one concrete example to show how we are drifting aimlessly. From Appendix III of the Administration Report of the Department of Industries for 1936-37 it is found we have only twenty-six peripatetic weaving schools in the Province and they have since their establishment served only two hundred and twenty-nine centres. Only two more are proposed to be established this year. Sir, if we really want to teach weaving to the agriculturists of Bengal as a

subsidiary means of earning a livelihood, we should have a school in every union for at least a year. There being about 5,000 unions in Bengal—and the twenty-eight schools we have including the two proposed to be established this year, it will require hundred and seventy-one years to cover the whole of Bengal. Similarly, with regard to introduction of improved departmental seeds, the Royal Commission on Agriculture found only fifteen per cent. of jute area under improved jute cultivation and less than one per cent. under improved paddy. This was the result of the activities of the department for more than twenty years. Sir, it will take at least hundred years for introduction of improved jute in all jute lands and two thousand years for introducing improved paddy in all paddy lands at our present rates of progress. Sir, while other countries are going in meteoric speed, should we not be moving even at snail's pace by the path of progress and advancement? Have our Ministers considered these and drawn up any comprehensive scheme for development of each branch within a reasonable time—say ten, fifteen or twenty years. I know all these as well as the liquidation of mass illiteracy will require a huge amount of money and we will not be able to tackle with the problem properly with our slender resources and that is why I suggested to the Ministers that in addition to imposition of tax on agricultural income, they should come up with a Bill for a turnover sale tax on luxuries like that in Germany and France. But, Sir, our Finance Minister thinks we are quite well off and not only no taxation is necessary, but there is no need even to spend the surplus——

The Hon'ble Mr. NALINI RANJAN SARKER: Question! I have never said that.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, for the economic regeneration of the country mere playing with the problem will not do. If we tackle with the problem properly, there will be no necessity for additional provision for medical, anti-malarial and other kindred schemes and many in this House will agree with me that the chief cause of widespread of disease and extraordinary mortality in Bengal is malnutrition. If anything perceptible is to be achieved within a reasonable time, we must have clear imagination and foresight and robust optimism and a firm determination and then and then only we can do anything worth doing. Sir, idealism and imagination play a great part in national regeneration. Even a scientist—who deals with positive matter—cannot expect to invent anything new unless he has some imagination. The visionaries of yesterday are now the most successful administrators of the world. Sir, I have ventured to offer some definite suggestion which I hope will receive due consideration when the supplementary budget is prepared. In the meantime, Sir, I would most respectfully suggest to the Ministers that for every

department they should have a small committee of, say, four members (two from each House) to discuss and draw up schemes for their consideration. This will be real practical help to them and if they take the members into confidence, they will lose nothing, but will only make their position strong. Sir, I had to criticise the budget rather uncharitably, but my reason for doing it is that I am extremely anxious to see the Ministry do some real and substantial work for the solution of the *dal-bhat* problem. In conclusion, I wish and pray that Providence may give the Ministers strength and wisdom to carry the nation through the path of progress and advancement.

Dr. RADHA KUMUD MOOKERJI: Sir, the Hon'ble Finance Minister deserves congratulation for his singularly good fortune in being able to find about a crore of rupees to spend on several new schemes in the nation-building departments, and thereby make a marked contribution towards the progress of the province. The problems of rural debt and credit, agricultural prices, primary education, unemployment, rural water-supply, malaria, tuberculosis or leprosy, have all received their fair share of attention within the limits of the available resources of the budget, and, what is more important, within the rigid commitments of the constitution. One can hardly have any quarrel with the details of the budget, nor can a person outside the Government offer off-hand alterations in its appropriations which might disturb the balance of the budget. But I and the party I represent here have an eternal quarrel with the system, the policy and the principles for which the budget stands. A radical change in the system alone can produce a truly national budget. Sir, it has been said that a man is known by the company he keeps. I think it is truer to say that a man is best known from his expenses, from his domestic budgets, which show how he distributes his earnings among the different wants of his life, and if expenditure is an index to an individual's character, it is more so to a nation's. For instance, the degrees of militarism which are exhibited by the different principal nations of the world to-day are exhibited in the proportions which their respective military budgets bear to their total revenues. Similarly, our new constitution may be judged by this financial test alone. This much-vaunted federation, for instance, has reserved, and has put out of popular control eighty-five per cent. of the total revenues of India, and of this eighty-five per cent. sixty-two per cent. will be devoted to military expenditure which does not offer any career to Indians. Therefore, the extent of self-government which federation is promising to India, amounts to only three annas in the rupee. Now, as regards Bengal, we are much worse off. Federation is the worst enemy of Bengal. It has robbed the province of a disproportionate amount of her revenues, and leaves her in a totally destitute and desperate condition. The present Cabinet is a set of mere accountants, skilled only in adding up and subtracting moneys by mere arithmetic.

The Hon'ble Mr. NALINI RANJAN SARKER: No, we are book-keepers.

Dr. RADHA KUMUD MOOKERJI: Mere arithmetic cannot save the province from the initial bankruptcy to which she has been consigned by an outrageous federal finance. Even when the late Government of Bengal in fighting for the jute export duty pointed out how the future of the province would be blighted—on this subject I am very very careful, and I have with me perhaps what was a confidential document of Government—it appears to be a blue paper, but not quite blue—it has become almost red now—what were the grounds on which they fought for the jute export duty. The first ground was, as they pointed out, how the future of the province would be blighted—I am quoting Government's own words——

(*a*) by the inequitable distribution of revenues between the centre and the provinces,

(*b*) by inadequacy of revenues assigned to Bengal, and

(*c*) by the crippling effects of this initial inadequate revenue on the progress of the province,

and the Government of Bengal proved all these points by facts and figures. This federal arrangement means that while Bombay with a population of only nineteen millions (including of course Sind in those days) was given a revenue of Rs. 15 crores, Bengal was dismissed with a revenue of about Rs. 11 crores for fifty millions of her population, a population that is two and a half times that of Bombay. On the Bombay standard, Bengal should have a residual revenue of at least 30 crores of rupees instead of only Rs. 11 crores.

The Hon'ble Mr. NALINI RANJAN SARKER: Quite right. The whole revenue ought to have come to us; nobody else should live in this world then, but ourselves!

Dr. RADHA KUMUD MOOKERJI: Well, it is the calculation of the Government of Bengal. I am now talking of federal *loot* and you should not be in love with federation. The result is that where Bombay can spend one rupee, Bengal can spend only four annas on Education. You can remain content with your lot no doubt, because "Sufferance is the badge of our tribe" as Shylock said. So that where Bombay is spending one rupee on Education, Bengal is spending only about four annas. On what were called the transferred or nation-building departments, the Bengal Government pointed out that where Madras has been spending Rs. 86 and the Punjab Rs. 82, Bengal was spending only Rs. 14. So as regards my predecessor's lament about agricultural decay and the cause of its decline—well, the real cause

of it is somewhere else. Where on Education, Madras has been spending Rs. 82 and the Punjab Rs. 78, Bengal has been spending the magnificent sum of Rs. 21! On Public Health, Madras has been spending Rs. 115 and the Punjab Rs. 94 as against the modest sum of Rs. 24 spent by Bengal.

Mr. HAMIDUL HUQ CHOWDHURY: Rs. 24 of what?

Dr. RADHA KUMUD MOOKERJI: On the same basis of comparison where Madras can spend Rs. 115, Bengal can spend only Rs. 24.

Mr. HAMIDUL HUQ CHOWDHURY: Is it for the whole province?

Dr. RADHA KUMUD MOOKERJI: The total provincial expenditure on the Transferred Departments has been calculated in this manner, so that its principles may be brought home to you. At any rate this province is spending only Rs. 24 on Transferred Departments as against Rs. 94 spent by provinces like the Punjab.

Mr. HAMIDUL HUQ CHOWDHURY: On Public Health alone?

Dr. RADHA KUMUD MOOKERJI: Yes. The Government is spending Rs. 24 only on the Transferred Departments as against Rs. 82 spent by the Punjab, and I shall give separate figures. Let me again make my point clear. The capacity of Bengal to spend on Public Health is Rs. 24 as against Rs. 94 spent by the Punjab, and Rs. 115 spent by Madras. This is the basis of comparison. Has Bengal any future, material or moral, under this federal system? Should not Bengal fight federation only for its financial aspect, if not for its unacceptable constitutional features?

I hope the Council will unanimously pass the resolution against federation which has been tabled by a member of my party. The question that I now put to the Finance Minister is—Is he for continuing the fight against federation for securing financial justice to Bengal, the fight that was begun by the late Government? As a result of that fight no doubt there has been some improvement in the revenue situation under the Award of Sir Otto Niemeyer. But even this Award does not go far enough and Bengal cannot accept it as a settled fact and write herself her own doom. We must carry the fight further by claiming first the full amount of the Jute Export Duty on the ground of the principle so well laid down by the Peel Committee of the Round Table Conference, viz., "that federal resources are to be confined only to the revenues derivable alike from all Provinces and States, or which can be raised without any action on the part of any individual State." This

principle, laid down by Lord Peel's Committee, has been quoted by the Government of Bengal. This principle, as the Bengal Government pointed out, "militates against the levy for federal revenues of a duty on a product derived solely from three provinces." Secondly, she must claim a much larger share of income-tax receipts to be distributed among the provinces. Bengal's revenue from income-tax exceeds Rs. 6 crores as against Rs. 3½ crores of Bombay and Rs. 1½ crores of Madras. Of the total income-tax raised in whole India, over thirty-six per cent. comes from Bengal. A portion of Bengal's income-tax is due to the business of inland provinces but even then, as Government points out, Bengal's share of income-tax is much greater than that of any other province. I suggest to the Hon'ble Finance Minister the appointment of a Special Committee to determine beforehand what amount Bengal can claim from federation as her own income-tax separated from the tax due to up-country business.

My next suggestion is that Bengal should also claim a part of the Corporation tax which is not necessarily treated as a Federal Tax in other countries. The growth of joint stock enterprise is one of the strong points in Bengal's economic life and prosperity and should not be taxed by the Centre. The present Finance Minister as the builder of one of Bengal's largest companies——

The Hon'ble Mr. NALINI RANJAN SARKER: But that company gets income from all provinces.

Dr. RADHA KUMUD MOOKERJI: This company was built up by Bengal before federation could take any notice of it. I have said a part of the Corporation tax, and I do not mean that the whole of the Corporation tax, should be annexed by any particular province. I certainly expect the Finance Minister to put in a claim——

The Hon'ble Mr. NALINI RANJAN SARKER: I would implore Dr. Radha Kumud Mookerji not to harm the institution by his speech.

Mr. PRESIDENT: The matter rests entirely on Dr. Mookerji.

Dr. RADHA KUMUD MOOKERJI: I am not prepared to give in, because the Bengal Government have put forward a claim for a larger share of the income-tax——

The Hon'ble Mr. NALINI RANJAN SARKER: But do not harm that institution.

Dr. RADHA KUMUD MOOKERJI: I am not making any reference to any particular institution but perhaps in regard to the whole subject of federal finance the best method of approach on which Bengal even now can insist is (1) that the total federal demand and deficit should be first assessed and fixed and then distributed among the provinces in a manner which will leave about the same *per capita* revenue for each province—I am absolutely fixed and decisive so far as this point is concerned, because the standard should be the same amount of *per capita* revenue for a province,—and (2) that Bengal should be free to find her own ways and means for meeting the federal demand thus assessed without any federal dictation. At present federation has seized the most fertile sources of Bengal's revenue, viz., Customs, Income-tax and Corporation tax, and released those which are least elastic, such as Land Revenue and Excise. The fact is that there is no hope for Bengal whatsoever if she can spend only a fifth of what Bombay or Madras can spend per individual citizen.

I now leave the subject of Bengal's revenue claims against federation which Bengal must fight for before federation makes a start, and come to assess and appraise her actual revenue position in relation to her needs. From this standpoint, the Budget shows very little revenue to minister to the growing needs of a population of fifty millions. The Budget views the province as a statical entity, an arrested growth, and not as a dynamic organism. It caters more for the needs of law and order than those for progress. It first of all has to bend itself to the British steel frame of an expensive administration which swallows up a disproportionate amount of the total revenue on account of mere charges for collection or revenue, for establishment and working expense. The Governor accounts for Rs. 8 lakhs, the Ministers about Rs. 4 lakhs, the Legislature Rs. 13 lakhs while Civil Executive Administration costs about Rs. 125 lakhs in all its branches, a judicial administration over a crore, and police and prisons about Rs. 3 crores. The total of these establishment charges alone comes up to about Rs. 6 crores or half the total revenue of the province. No wonder there is hardly adequate money left to go round the nation-building departments and serve the primary needs of the province. Education gets less than half of the Police budget, Public Health even less, and Irrigation a tenth.

The Budget touches only a fringe of Bengal's desperate national problems on the solution of which depends her whole future. She has been saddled with an initial handicap of inadequate revenue and lately made to suffer severely from deficit budgets for seven years between the last twelve years, 1922 to 1934, to the total extent of about Rs. 9 crores. She has been subjected to a continuous drain of her wealth to finance the development of British rule in other parts of India for well-nigh hundred and fifty years, from the Carnatic Wars of 1750 and the Battle of Plassey of 1757. The drain cost her a third of her

population who died of starvation in the famine of 1776. Even to-day she is sacrificed at the alter of federation. Her desperate situation calls for drastic remedies, bold schemes and not piecemeal measures. She has to find money for primary education, for eradication of malaria, for rehabilitation of her national industry and agriculture and for opening up new avenues of employment in a balanced development of industries. The key to the situation lies in the renovation of Bengal's water resources, her dying rivers and better distribution of her waters to prevent floods in the east and droughts in the west. The Hon'ble Finance Minister states that Bengal cannot support big irrigation schemes out of her revenues as such schemes are always financed by loans. The Punjab has already spent Rs. 33 crores on such schemes, that land of five rivers and their numerous tributaries. Even the United Provinces Government have spent Rs. 5 crores on irrigation and consequential Hydel schemes carrying electricity to rural areas. This Council has unanimously passed a resolution asking for a Committee to go into the whole subject of Bengal's irrigation. We cannot build up Bengal on the basis of her impoverished soil, her starving insolvent peasantry and malaria-stricken population.

The peasant is Bengal's primary problem. He is ruined by the fall of agricultural prices, as the prices of what he has to buy for his mere existence are not covered by the prices of what he grows. The Government's own experts at Ottawa deposed that while India's export prices had fallen by 49 per cent., import prices had fallen only by 13 per cent. The index figures for some of the articles which the peasant needs are as follows on the basis of 100: cereals 66, raw jute 45, hides and skins 52, cotton 89; as against 187 for cotton piece goods and 161 for kerosine. It has been calculated that the total value of the chief agricultural crops of Bengal has now declined by as much as 61 per cent., which means that the peasant in Bengal is now getting only 7 annas in the rupee that he used to get for what he produces. At the same time the acreage under food grains has considerably decreased, by as much as 58 per cent. The peasant is thus daily running into debt; besides carrying the burden of his accumulated debts. The only way to make the peasant solvent and agriculture productive and profitable is to secure to the peasant the fair price of his produce by the State marketing of agricultural produce, as is done in most countries of Europe where prices are regulated by recognised agricultural or peasants' unions. I have got direct testimony to cite on the subject. There is now a talk about fixing the price of cane and jute in response to the trade union pressure and strikes exerted by the workmen of the big industries dependent upon those raw materials. But the peasants out in the villages deserve as much protection as the more organised industrial workers. I would not have pressed this point if I were sure that there was any other way out. The entire economic future of Bengal is bound

up with a profitable agriculture which employs and feeds about three-fourths of her population. A subsidiary solution of the problem is, as has been indicated by my predecessor, to find work for the agriculturist when he is out of work at seasons. This is best done by handicrafts, by Mahatma Gandhi's panacea of *khaddar*, spinning and weaving, the growth of which the State and the people must combine to stimulate. In this connection, may I refer to the recent order of the United Provinces Government? These are the words of the order: "All uniforms of Government servants supplied by Government should be made of hand-spun and hand-woven *khadi* as far as possible and that all articles purchased by Government should be *swadeshi* except such as are not available in India." It is such State action that can bring food to the starving and workless peasant. A move in these directions of control of agricultural prices and growth of handicrafts has been made by the present Ministry who deserve congratulations, however inadequate may be the steps taken. Regarding handicrafts, I must again cite the example of the United Provinces Government in setting apart a sum of Rs. 1 lakh to be given away as grants to qualified young men to set up in industries for which they are trained, while Government has already published a list of industries which may be profitably undertaken. This list was published in the United Provinces Gazette.

The Hon'ble Mr. NALINI RANJAN SARKER: Imitating the Bengal publication.

Mr. PRESIDENT: Dr. Mookerji, you have already taken twenty-five minutes. How long will you take to finish?

Dr. RADHA KUMUD MOOKERJI: You, Sir, promised me thirty minutes.

Allied to agriculture is Bengal's deplorable condition in the matter of Public Health, and the Finance Minister himself knows best how the late Deshbandhu C. R. Das proposed a loan of Re. 1 crore on behalf of the Swaraj Party to rid the province of the scourge of malaria.

My criticism of the Budget, therefore, is simply that it shirks and shrinks from big schemes which alone can solve the big problems threatening the complete material and moral ruin of Bengal. The Government must address themselves to the roots of the problems instead of applying their remedies piecemeal and at the surface.

I shall now conclude by commenting upon some of the appropriations of the Budget by way of suggestions, though the Upper House has no power to influence the Budget. The Finance Minister deserves congratulations on breaking a new ground in the Budget by recognising

and helping some truly national and neglected institutions such as the Viswa-Bharati, the Bangiya Sahitya Parishad, the Statistical Institute, or the Jadavpur Tuberculosis Hospital. I wish in travelling to the Jadavpur Hospital, he had not passed by and had given support to Bengal's largest enterprise in national education as centred now in the Jadavpur College of Engineering to whose funds some of our much-maligned zemindars had contributed over 10 lakhs of rupees in the days when national education was considered seditious and its promoters prosecuted. As to general education, I wish him to cross over to the other side of the river and find at Uttarpara an efficient College which, built up and maintained so long by the munificence of another individual zemindar, is now languishing for want of a little Government aid in response to such disinterested private generosity. And may I also in this connection commend to both the Finance and Education Ministers the case of another institution of which I am a humble alumnus, the Krishnath College and School which has been maintained by the munificence of the Kasimbazar Raj but now calls for State aid for further development.

Let me now end by a reference to a very urgent and difficult case of unemployment affecting very severely a particular class, that of discharged detenus and political prisoners whose prospects in life have been shattered by their detention in the formative periods of life. If the Government could find 50 lakhs of rupees from year to year on the detention of these youths, can't they set apart a like sum for starting them as normal citizens profitably employed with credit to themselves and the country? The whole subject merits a complete and generous consideration at the hands of the authorities.

My criticism of the Budget, as the Leader of the Opposition, therefore, amounts to this that the Budget has not been able to rise above the limitations and commitments of the constitution, old and new, and is still showing itself in its main features as the child of the old system, a slave to its shackles. It is not inspired by that imagination, idealism, and vision, which alone can clearly comprehend the fundamental desperate problems of the province and boldly design and apply the required remedies by chalking out new lines of action called for by a hopeless situation. Such bold adventures in unchartered seas, complete and overhauling schemes of economic planning, are being undertaken by most of the western democracies and dictatorships in response to modern needs, and it is only by such constructive financial statesmanship that Bengal can be dragged and rescued out of the yawning gulf of ruin in which she is immersed with her decadent agriculture, steady depopulation, dying rivers and unbalanced water resources resulting in flood, famine and drought, public health menaced by malaria, her key industries of jute, tea, and coal laid low by uncontrolled prices, and her lack of industrial development, all following in the wake of the original sin

of an inadequate revenue assigned to her by an inequitous federal finance which is bound to starve every aspect of her national life. I am moved to exclaim in the words of the poet—

"Ill fares the land, to hastening ills a prey,
Where Agriculture withers, and men decay!"

Mr. PRESIDENT: I have already received intimation from ten hon'ble members who are very much anxious to take part in this general discussion. So if it be the desire of the House, I would fix ordinarily ten minutes for each speaker. Of course in exceptional cases where the leaders of the groups like to address, more time will be given.

Mr. NAZIRUDDIN AHMAD: I submit, Sir, it is highly desirable that a time-limit should be fixed.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Mr. President, Sir, let me at the outset congratulate my hon'ble friend the Finance Minister on the extreme good luck which has once again followed him while presenting his financial estimate for a second time. Thanks to a fortunate combination of circumstances, the Revenue receipts for the current year have shown an unexpected increase over the original budget figures while in spite of the sudden set-back in trade which occurred about a couple of months ago, the coming year's prospect is also almost equally bright. The result is that whereas his predecessors for years together could hardly make both ends meet and had to hold up for want of funds all projects for nation-building, he has been fortunate enough to be able to budget an expenditure of about a crore on new schemes. In these days of world depression when Finance Ministers in almost every land are hard put to it even to keep the most essential services of the State going, the Hon'ble Mr. Nalini Ranjan Sarker may feel a legitimate pride in being placed in such a favourable position with regard to his second year's budget. I must congratulate him for this.

But, Mr. President, I must be plain-spoken. Even the Ministers have not curtailed voluntarily even a pice from the expenditure on any department which has been for years together severely criticised by the public. The new budget of the Finance Minister exhibits from this point of view very little variation from its predecessors. The Grant under the "Police" remains unchanged, nay, it has even shown an increase; although terrorism has completely disappeared from the land, and the majority of political prisoners has been released, there is not the least justification for spending so much on the Criminal Investigation Department and the Intelligence Branch.

The Hon'ble the Finance Minister has treated us at the conclusion of his long statement to a philosophical dissertation on the "constructive policy of administrative economy". The long and short of that discourse is that the demand for any reduction in the present expenditure of Government either through reduction in the personnel or in emoluments, is most irrational, as it is calculated to seriously prejudice the efficiency of the administration. Sir, I am not accustomed to using hard words, but I must promptly confess when I heard this portion of the Finance Minister's speech, I could hardly persuade myself that these words were emanating from him.

No, Sir, there is nothing in the next year's increased allotments to new projects in which the Finance Minister and his colleagues can take pride. The additional funds at the disposal of the Finance Minister have been obtained neither by any judicious distribution of the administrative expenditure nor by any measure of economic expansion resulting in enhanced revenue receipts.

But, Mr. President, may I be permitted to point out to the Government that even in this business of allocation of the amounts to different objects, they have not acquitted themselves in a manner which disarms all opposition? The Hon'ble Minister has talked like an angel about the different vital needs of the country. He has assured us that "relief of rural indebtedness, spread of primary education, stimulation of the prices of agricultural commodities through improved methods of production and better marketing facilities", I quote his exact words, have been kept in the forefront of Government's attention.

In spite of the talk of talks of the Ministry about the improvement of elementary education, the Finance Minister has made provision for it in the budget for an additional amount of only a little more than five lakhs. Can anything be more ridiculous? And the bulk of this amount is meant to supplement the proceeds of the Education Cess which will be imposed on three of the districts of Bengal. That most useful class of public servants, the primary teachers, who are silently and unostensibly carrying the torch of education in the dark recesses of the country, have been ill-paid. Not to speak of the untrained section among them, even those who have got proper training hardly get so much as even five rupees per month from any public fund. May I request the Government to set apart at least another ten lakhs to supplement the grant-in-aid to the primary schools in these areas where people are unable to bear the burden of the Education Cess?

Sir, the Hon'ble Finance Minister has professed endless solicitude for the poor and heavily indebted tenantry of the countryside. But what relief has been provided for them in the Budget? We are told that more than sixteen hundred Debt Settlement Boards have been already created and two thousand more will be set up next year. Sir, it is well known that the already established Debt Settlement Boards

have succeeded in creating conditions of an almost financial anarchy in the countryside, harmful even to the interests of the tenants themselves. The Hon'ble Finance Minister has also himself admitted that without adequate provision for rural credit facilities which can alone ensure regular payment of the composed debts by settled instalments, no scheme of debt conciliation can be successful. The other day I tabled a resolution to that effect also. And yet one looks in vain in the Budget for the traces of any such scheme.

Then take the case of Agriculture with the improvement of which the prosperity of the whole province is indispensably bound up. None knows more than the Hon'ble Finance Minister himself that what the province most needs to-day for the advancement of her agricultural industry, is the spread of the knowledge of scientific methods of cultivation in the countryside and this object can be achieved mainly through the establishment of Demonstration Farms at least one in each thana. Is it not, therefore, ridiculous that only a paltry sum of Rs. 16,000 has been set apart in the Budget for this purpose? May I ask the Government to pay a little more attention to this matter?

Sir, I congratulate the Finance Minister on making better provision for the treatment and prevention of that fell disease which is making rapid strides in the country, I mean Tuberculosis and also for giving additional quinine grant. I beg to draw, however, the attention of the Government to the desirability of free distribution of Atabrine together with Quinine, as it has been shown by medical men that what Quinine alone cannot accomplish, judicious treatment by combining Quinine with Atabrine or Atabrine alone can achieve.

May I also request the Finance Minister to see that more funds are provided for maternity and child welfare work in the Budget than what has been actually done. Training of *daïs* in this connection is a most urgent necessity. I would urge the Government to frame a scheme without delay by which the service of at least one trained *dai* may be available in each Union and of one lady doctor within each Municipality. Mr. President, it will be hardly necessary for me to emphasise that there are fewer problems connected with the well-being of the nation than that of preventing the appalling rate of infant mortality and the permanent deterioration in health, often ending fatally, of the mothers of the race, due to the absence of proper care in the most critical periods of their lives. I know the solution of the problem is not very easy but if the Government take up the matter in right earnest and invite the co-operation of the local bodies, I am sure success is not difficult to achieve. There are two or three other matters also which I want to urge upon the careful consideration of the Government. Bengal requires very badly a home for the cripples. There is no more pathetic sight than that of these helpless unfortunate people trying to excite the pity of the passers-by. The

question is in some way connected with the beggar problem but can admit of some sort of solution even apart from the successful tackling of the more difficult and more complicated subject of vagrancy to which also Government can no longer remain indifferent. May I expect my friend the Hon'ble Finance Minister to make a beginning in the solution of the question?

I congratulate my Muslim countrymen on the special attention which their educational interests have received at the hands of the Hon'ble Finance Minister. I do not envy them for this good luck. But, Sir, will it be too much to expect that when *maktabs* and *madrassahs* have been so zealously taken under the fostering care of my hon'ble friend, he will be kind enough to bestow a little more thought upon the welfare of the *tols* of the Hindus which have always been utterly neglected by the Government.

The last matter to which I would draw the attention of the Government is the necessity for seriously taking up the question of the introduction of military training in our educational institutions. I know this is a big question.

But given earnestness and a sincere determination on the part of the Ministry, at least a fair beginning in its solution is not very difficult. The University of Calcutta, so far as I remember, has urged the desirability of imparting military education to our students on a wider scale than is possible under the existing University training schemes. Unless, however, the Bengal Government comes forward and actively interests itself in the matter, nothing can be achieved. The Government of the Province is now run by Indians who ought to have a much greater regard for the real interest of the province than their predecessors. May I, therefore, hope that the Hon'ble Chief Minister and his colleagues will during the next few months, prepare a working scheme for carrying out the public wish in this matter and come forward with a demand for grant, at least in the Supplementary Budget for giving effect to the scheme.

Khan Bahadur M. IBRAHIM addressed the House in Bengalee. The following is the English translation of his speech:—

Mr. President, Sir, since the Bengalee reporter has no work to do, I shall speak a few words in Bengalee in order to supply him with some work.

The Bengal Government's Budget for the present year shows a deficit of Rs. 11 lakhs, the expenditure having been in excess of income. The deficit seems to be due to the grants made to various institutions. I thank the Hon'ble Finance Minister for his having allotted at least something to all the departments in spite of the present financial stringency.

Out of the extra amount of Rs. 16,60,000 assigned for education, a sum of Rs. 5 lakhs only has been set apart for primary education. Although a grant of Rs. 5 lakhs in the Budget is too insignificant for a country where 91 or 91·5 per cent. of the people are illiterate, there is no doubt that at least the four districts where primary education is going to be introduced this year will be benefited by it. Had a greater amount been budgeted for primary education, illiteracy in the province would have been removed to some extent. From a reply given by Hon'ble Education Minister yesterday, I have come to learn that for 15,161 students in forty-seven Government High Schools a sum of Rs. 4,44,556 is spent, whereas the expenditure for 127,933 students in five hundred and three private schools is Rs. 9,13,598 only. This shows how miserably circumstanced the private schools are. The private schools are doing a lot to liquidate illiteracy in the country but they are not receiving as much help from the Government as is expected. Further, amounts should have been separately earmarked in the Budget for these private schools. Be that as it may, the Hon'ble Finance Minister will, I hope, see to it that the private schools may derive the greatest benefit from the amounts provided for them. It is quite in the fitness of things that a sum of Rs. 5 lakhs for the establishment of a Purdah College and another of Rs. 1 lakh for the improvement of the Bethune College have been set apart. No individual, community, nation or country can make any progress unless the condition of women is ameliorated. For, it is not possible to have a good child without a good mother and without good children no country, community or nation can flourish. Just as a bird cannot fly if one of its wings is broken and becomes a plaything to boys, in the same way those belonging to a healthy society make a sport of the society which has one of its limbs rendered useless and its progress checked. The root cause of our miseries has been the ignorance of our womenfolk. We ought to be grateful to the Hon'ble Finance Minister for the little efforts he has put forth in order to remove it.

The provision made for granting scholarships to Moslem and scheduled caste students is a very reasonable one. No improvement of our motherland is possible without the uplift of the scheduled castes throuh education. For, the scheduled castes form an important section of our countrymen. Those who scent communalism in this matter must be suffering from a communal mania. How else can we characterise them? It is quite meet and proper that additional grants have been made to the Dacca University. The cause of the motherland is best served if the wants of the needy are supplied.

A grant of Rs. 2½ lakhs for the Co-operative Department is too scanty for the purpose. This amount will not relieve agricultural indebtedness in the least. This cannot be characterised otherwise than as a mere drop of water as contrasted with an ocean. For, the agricultural debt in Bengal is like an ocean. Debt Settlement

Boards have not been very successful in relieving that debt, nor is there any likelihood of their being so. Rather, these Boards have been instrumental in giving free scope to many evil practices. Straitened as the circumstances of the peasants are, the problem of their debt can only be solved if the Government of Bengal will establish land mortage banks with a huge capital and advance long-term loans to the peasants at a rate of interest amounting to 3½ or 4 per cent. per annum. The middle class people may also be benefited by it. In order to raise the capital all that Government have to do is to stand surety for the payment of interests at the rate of 2½ or 3 per cent. Public indifference to the Co-operative Department has been due to the lapses on the part of its officers. The very name of Co-operative Society has become a dread to the public. Establishment of land mortgage banks for advancing long-term loans is the best way of removing this dread from public mind. We do not understand why it is necessary to send two apprentices to Denmark for training. But this much is certain that the luck of some fortunate relation of some influential man is bound up with it.

Jute is one of the most important agricultural products of Bengal. The extreme misery of the Bengal peasants to-day is due to an unusual fall in the price of jute. This misery of the peasants has brought in its train the hardship to which the Zemindars, Mahajans, legal practitioners and others in Bengal have been put. Nowhere in the world is the jute crop so abundant as it is in Bengal. A small quantity of it is produced in Assam and Bihar. Nevertheless, there is always a demand for jute in every country of the world. Hence, it is Bengal which should, as the largest producer of jute, be entrusted with the task of fixing the price of jute. If in collaboration with the Governments of Bihar and Assam compulsory restriction of the cultivation of jute coupled with a prescribed minimum price of it is resorted to, the condition of the peasantry and along with it the condition of the country at large will certainly improve. But it is doubtful whether the present Ministry in Bengal will find courage enough to pick, as it were, a quarrel with the crocodile while living in the water! It is "Clive Street" and the Dundee Port which have the entire hand in the fixing of the price of jute. None but those who have an experience in the matter can realise what amount of labour the cultivator has to devote to the production of jute. Nonetheless, he is getting no return for his toils, whereas, in spite of the present slump in the jute market the millowners are enjoying cent. per cent. dividend!

There are two main problems confronting Bengal struggling for its existence. The one is the bread problem and the other the problem of clothes. There is no scarcity of foodstuffs in Bengal. On the contrary, she exports foodstuff to foreign countries even after meeting her own needs. But she has to depend on others for her supplies of

cloth. There is a demand for 80½ crore yards of yarn annually. Bengal has got only 19 mills of her own. Another 24 are in process of construction. The annual output of those mills and that of the handlooms come to fourteen and eighteen crore yards, respectively, the remaining 48½ crore yards are imported from abroad. As a result of this, 8 crores of rupees are annually drained away from Bengal. There are two hundred and three mills working in the Bombay Presidency, but none of them has got a capital over 10 or 20 lakhs of rupees. With a capital outlay of 10 crores of rupees, 100 cotton and 10 jute mills can easily be established in Bengal. If the revenue reserve of the Government of Bengal which amounts to 1 crore and 18 lakhs of rupees is laid out for this purpose, the remainder can easily be secured by launching loans. This will help in erecting without the least difficulty ten cotton and ten jute mills and as a result the capital invested will remain within the country, the unemployment problem will be solved to a large extent and the Government will be the gainer. I hope the matter will receive the attention of the Hon'ble Ministers.

In previous years a great deal of expenditure had to be incurred for the Police because the detenus were there. But during the year under review a large number of them having been released, the Police will have much less work to do. In view of this, it is hard to understand why an excess of one lakh of rupees over the last year's estimate has been provided for the Police. Under the head of house allowance for the Police and supply of mosquito-curtains for the Police constables, a large amount is spent every year, while officers of a similar rank belonging to other departments are not allowed this house allowance, nor are they supplied with mosquito-curtains. It is hard to get at the policy underlying this favour shown to the Police. If the grant for house allowance and mosquito-curtains could be stopped and diverted to the primary education fund, the illiteracy in the country might have been considerably reduced. Government spend large sums of money for maintaining law and order in Calcutta and in municipal areas all over Bengal. But it is the village people who have to pay for the salary of the *chaukidar* that maintains law and order in the village. The *chaukidar* who preserves peace in the village should legitimately be paid by the Government. It is indeed a matter for consideration how far the imposition of any *chaukidari* tax on the village people is justifiable.

Up till now nobody is aware of any the least expenses being made anywhere, except Pabna and Rajshahi, in North Bengal on account of irrigation work. This is also responsible for the gradual deterioration of health in North Bengal. I hope Government will this time remove a long-felt want of the North Bengal people by spending adequate sums of money for irrigation work in that part.

For long a scheme has been in the making for reclaiming the Karatoa river between Bogra and Rangpur and much money has been spent over the visits paid to the place by the officers of the Irrigation Department. I hope the work of reclamation of the Karatoa river will be finished this time. The Karatoa is a sacred river of the Hindus and provides a place of pilgrimage for them. If it is reclaimed, the districts of Bogra and Rangpur which are mainly agricultural, will be greatly benefited and we believe, the health of these two districts will also greatly improve.

We have heard that the Government of Bengal received enough money last year from India Government for the purpose of constructing roads. But we do not know where and how that money has been spent. In North Bengal no road, except the Pabna-Issurdi Road, has been constructed. I hope some money will be spent out of the amount received this year for the roads in North Bengal so as to remove the inconvenience that the people of that part have to suffer from. In abolishing the tax on tobacco which provides the only diversion for the cultivator during his leisure time, the Hon'ble Minister has acted very wisely. If in order to replenish the loss in the Budget which this abolition has caused, an increased rate of tax had been imposed on ganja, opium, wine and other intoxicants, as well as on bioscope, dancing by girls and articles of luxury, leaving stamps and court-fees unaffected, the Budget would have looked more decent because of the restriction put on people's drug habits and luxurious mode of living.

In conclusion, I beg to submit that the Hon'ble Finance Minister has given enough proof of his solicitude for the province and earned everybody's thanks for having made handsome grants to Viswabharati, Children's Welfare Society, Jadavpur Tuberculosis Sanatorium, Youths' Welfare League, Bangiya Sahitya Parisad, Moslem Orphanage, Ramkrisna Asram, Nari Vyayam Samiti, Workers' Associaton, Society for the Prevention of Malaria, as also, for such purposes as supply of drinking water in rural areas, distribution of quinine, etc., etc. On the whole this year's budget is quite praiseworthy.

Maulana MUHAMMAD AKRAM KHAN addressed the House in Bengalee. The following is the English translation of his speech:—

Mr. President, Sir, in view of the time-limit fixed yesterday in connection with the Budget discussion, I came prepared with a note for my speech that would have covered forty minutes. But, arriving in the Council Chamber to-day, I came to understand that under the new ruling, this speech of mine would have to be so condensed as to enable me to finish everything within ten minutes.

Before the discussion started in the Council, I had gone through the Budget statement of the Hon'ble Finance Minister at home. It had

then appealed to me very much. But in order to test whether this favourable appeal was due to any personal consideration or whether it was due to the fact that I could not follow quite well the English language in which it was couched, I did not say anything for the first few days but waited very eagerly to listen to the speeches delivered by the opposition, especially by my dear friend Mr. Humayun Kabir,—so that I might thoroughly acquaint myself with the other side of the picture and reach my own final conclusions on it. But, Sir, after having listened to their speeches my previous opinion has been more strongly confirmed. And for this I heartily congratulate the Hon'ble Finance Minister.

Two charges against the Budget have been very strongly emphasised, viz.—

(*1*) It is a propaganda Budget.

(2) It is a Budget got up entirely for the benefit of the middle class.

By propaganda Budget it is implied that the Budget provides for such a variety of good measures as will be regarded by the masses to be highly beneficial to themselves and in consequence they will be favourably disposed towards the Ministry. What if they are so disposed! There is nothing worthy of blame, nothing to be offended with if the Ministers earn fame by doing what is good. Next, whatever may be said by way of criticisms, no heinous crime certainly is committed if an attempt is made to save the middle-class people. In between the upper and the lower strata of society, the middle class stands as the backbone of every nation. In every society it is the middle-class people who keep up the social ideal, culture and civilization through all ages and clime. Hence, everybody ought to know that no heinous crime is involved in saving the middle class; rather, it is one of the greatest duties to be discharged by the leaders and thinkers in society. I thank the Hon'ble Finance Minister for his having made some provision in this year's budget to tackle this matter.

It is usual to move from premises to conclusions, but times having changed, I have to go just the other way about.

I therefore, begin with the Madrasa Education first. The Hon'ble Finance Minister has this time assigned Rs. 70,000, for the Madrasa education which has always been treated with neglect. On behalf of those who have received and are willing to receive their education in Arabic, I thank him sincerely and at the same time request him earnestly not to squander away these 70,000 rupees in mere charities. Before spending the amount a thorough investigation should be made into the present needs of the Madrasa educaton in Bengal. Those who have any experience in the matter are aware of the sad plight in which Arabic education in Bengal is landed as a result of the clash between the old and

the new schemes. In my opinion the old scheme is barred by limitation and the new scheme is an impracticable proposition. We shall have to dissolve both of these and discover a beneficial scheme of education.

Many have brought a charge against insufficient provisions for primary and secondary education. The charge is real but as regards my own suggestion for a remedy thereof, I have to make it rather diffidently. I am of opinion that the expenditure on college education should be sufficiently curtailed so as to provide with the sum thus released for the additional expenses of disseminating primary and secondary education. This is the only solution which meets both the problems at one and the same time, viz., horrible illiteracy throughout the province and ever-increasing unemployment among the educated. This is also the object of the scheme which has recently been framed at Wardha under the auspices of Mahatma Gandhi.

In this connection I beg to enter my protest against the dissatisfaction shown towards the proposed Purdah College. I am not particularly eager to send girls to college. Nevertheless, the fact remains that girls are going to college and their number will increase. But a strong determination has also cropped up in the social mind to protect future mothers of the race from the poison-gas of pernicous environment and atmosphere engendered by the impurities and vices which have crept into the body politic in the name of female education. I believe that the proposed Purdah College is a manifestation of that determination and it is for this reason that I support it. This is no Moslem college, hence nobody should have any cause for apprehensions on that count as well.

In conclusion, I beg to refer to my native land, west Bengal which has always been an object of neglect and scant attention. I have neither the capacity nor is it necessary to improve upon the tenderness and compass on which the Hon'ble Finance Minister has brought to bear upon his Budget statement at page 21, while pathetically depicting the misery and distress of central and west Bengal. But I request that he will be good enough to translate into actual practice the sympathy expressed in words and save the dying central and west Bengal from utter destruction. Unless it is absolutely necessary, no tax should be imposed for irrigation work, but at the same time it will not be proper to secure no income commensurate with expenditure. Owing to the injustice done by the Government itself for unreasonable profits of the Khas Mahal Estate, the outlet of water and the passage of boats have been closed in that part of the Basirhat subdivision to which I belong. It is therefore urgently necessary that irrigation work should be immediately undertaken in this part and carried on without imposing any tax.

Dr. ARABINDA BARUA: Mr. President, Sir, much as we would like the Hon'ble Finance Minister to bring about a millennium in

Bengal, we should not lose sight of the fact that even with the best of intentions, the most intelligent and patriotic of Finance Ministers—of whom the Finance Minister of Bengal is undoubtedly one—cannot achieve the desired object when he is faced with circumstances over which he has no control or they are such that he cannot harness them to his purpose without jeopardising the financial stability and violently disturbing the existing state of affairs that prevails in the province. There can be no two opinions about the fact that he has made a move towards national planning, but not being a free agent in many matters in which he has to seek the guidance of the Centre, he is to a certain extent handicapped in this respect. In fact no true national planning can be undertaken by the Provincial Government on a provincial basis. All are agreed on the point that more money should be spent on nation-building works, but the difficulty has been that there is not enough money for the purpose. Fresh taxation would no doubt solve this problem and the Hon'ble Finance Minister has asked the country to be prepared for it. There is a persistent cry that there should be retrenchment and more retrenchment, but the difficulty is, to use the Finance Minister's own language, "We have inherited an organisation that has been in existence so long that it is impossible to overhaul it overnight." On the whole, therefore, the Finance Minister had to budget with caution. And I congratulate him on his method in presenting the Budget. As he has so admirably expressed, the final responsibility for national prosperity is with the people. Government can but provide the machinery. Without the co-operation of the people, it is not possible for the Government to secure national regeneration.

The Hon'ble Finance Minister has invited suggestions which, he has assured us, will receive his careful consideration. Having been given this assurance, I venture to put forward a few suggestions which I hope will receive the consideration that they deserve. I shall, however, content myself by confining my remarks to certain matters in which the Buddhist community of this province to which I belong, are primarily interested.

It is a matter of gratification that the problem of primary education is seriously engaging the attention of the Government. The problem is being tackled from all points of view. I think I shall be failing in my duty if I do not invite the attention of Government to the system of education, mainly primary education that prevails in the various Buddhist monasteries in the different parts of this province. From time immemorial these Buddhist monasteries have been the centres of education, both secular and religious. It is a matter of common knowledge that during the hey-day of Buddhism in India some of the Buddhist monasteries had acquired the fame of Universities where students from different parts of the then known civilised world

used to come to learn Buddhist philosophy, literature, science and arts. The famous Universities of Nalanda, Taxila, Vikramasila and Odantapuri were but Buddhist monasteries which had attained the status of Universities in ancient times. With the extermination of Buddhism from India, gone are those universities, libraries, and other centres of learning. The community of people who have somehow been able to preserve the light of Buddhism burning in the land of its birth, have still to the present day preserved the monasteries which, though shorn of much of their past glories, are nevertheless centres of primary education besides being centres of Buddhist religious education. In Bengal the number of these monasteries would be more than one thousand. Besides the monks and novices who get their religious education in Pali and Buddhism, the boys and girls round about these monasteries get their elementary education in them. It is a well-known fact that in Burma the system works so well that the percentage of literate people in that country is much higher than that in any of the provinces of India. In Bengal these monasteries are being maintained with the subscriptions and donations from the Buddhist public. But the poverty of the Buddhist people is most appalling and for want of funds most of these monasteries are now in a moribund condition. Government have never given their attention to the preservation of these useful institutions. I invite the pointed attention of the Government to the preservation of these monasteries which being centres of primary education besides being centres of orthodox system of education in Pali, deserve every help and encouragement from the Government.

We are glad to find that the Budget has provided for a capital grant of Rs. 10,000 for the Nepali Girls' School at Darjeeling. It is a very laudable move on the part of the Government to open their purse-strings for the encouragement of female education amongst people who are very backward in this respect. It is, however, a matter of deep regret that no provision has been made for the encouragement of female education amongst the Buddhists who are certainly a most backward community in the matter of female education.

We further gather that provision has been included in the Budget for special scholarships and stipends for Muslims and members of the scheduled castes. I have been not a little pained to find that here as well no provision has been made for the members of the Buddhist community. The arguments which hold good in favour of making these provisions for the Muslims and members of the scheduled castes, hold equally good in favour of making such provisions for members of the Buddhist community.

Pained though I have been to see the needs of the Buddhist community ignored, I have not, however, been surprised at this. It is very unfortunate that the Government has consistently ignored the

claims of the Buddhist community all along. The Buddhists have all along been considered as a non-existent factor in the body politic of the country. In spite of the fact that smaller minorities like the Anglo-Indians and Indian Christians have been given not only separate representation, but weightage in representation under the Government of India Act, 1935, the Buddhist community, in spite of its being the biggest minority community in this province, has been given no separate representation, not to speak of any weightage in representation under the provisions of the Government of India Act, 1935. It is only through the grace of Sir John Anderson, the late Governor of Bengal, that I, a Buddhist, am here. What the constitution had failed to provide for the Buddhist, the sagacity and statesmanship of Sir John Anderson has to a certain extent rectified that defect of the constitution. But mine is a lone voice, and unless the constitution is so changed as to give the Buddhists a few seats in the legislature, the needs and requirements of the Buddhists are bound to go unheeded. No wonder that this community is very poorly represented in the services, no wonder that it is unrepresented in the various representative institutions and bodies, no wonder that not even the day of the birth, enlightenment and death of the Founder of their religion is a gazetted holiday in Bengal and no wonder that no provision has been made in the Budget for the encouragement of education amongst the boys and girls belonging to this community.

It is high time that the Buddhists should be given their rightful share in the governance of the country. I draw the attention of the Government and people of Bengal to the rightful claims of a community of people who had in the past contributed much to the cultural advancement of Bengal and whose influence is still to be found in the rites and rituals, thoughts and culture of a vast number of the people of this province. A community of people who were great in the past, have still got the capacity of being great in the future. I appeal to the Government to come to their rescue and lift them up from their present degraded condition.

Rai Sahib INDU BHUSAN SARKER: Mr. President, Sir, my first impression of the Budget statement submitted before this House by the Hon'ble Finance Minister along with his fuller statement in the Lower House was one of mixed feelings. Indeed, there is much in the Budget on which the Finance Minister may well claim warm congratulations, although there are also features on which I may not so warmly congratulate him. As we all know, the Hon'ble Mr. Sarker is one of the keenest business brains in Bengal. His experience of high finance is unrivalled by anyone in this House. It is, therefore, fortunate that provincial autonomy in this province has had the advantage of starting with Mr. Sarker as the custodian of its finances. In the

Budget estimate that he has presented we indeed meet with a clever and intelligent husbanding of resources, although a little too cautious; a fine grasp and a thorough understanding of the many problems confronting the province. Moreover, the Hon'ble Finance Minister may well feel proud that he has broken new ground by emphasising "the human background" of the Budget, a sentiment which it is up to all of us to remember. I am particularly struck by the fact that in his presentation of the Budget, the Hon'ble Mr. Sarker has not remained content by doing merely an Accountant's job; he has discussed the problems of provincial high finance against a much wider background. I think, for all these things this House may well congratulate him.

Sir, it will be idle to deny that the Finance Minister has given us a prosperity Budget. Call it a propaganda Budget—if you will; call it a middle-class Budget—but the fact remains that he brings us heartening news of windfalls, large closing balance, and enough money for spending departments. But with so large an amount of money at hand for utilising it on nation-building purposes, the Hon'ble Finance Minister does not seem to have any definite programme in order to tackle any one or two major problems of the province. Like a wealthy child, he has distributed his gifts to various departments without any clear-cut programme. In this sense it is merely a conventional budget without large policy or vision.

Sir, it appears that with so huge an amount of closing balance and general improvement in the finances of the province, the Hon'ble Minister has not been able to give us any relief in the shape of the abolition of the Emergency Taxes of 1935. We all know that while making these taxation proposals in 1935, Sir John Woodhead, the then Finance Member made no secret of the fact that these taxes were merely an emergency measure, and if the depression ended by the time their terms ended, there might not be any need of renewing them. Sir, that was pointed out quite clearly. But, excepting the Tobacco Tax (which the Leader of the Praja Party, now the Hon'ble Chief Minister of the Province, promised to repeal in his election manifesto) no other taxes in the group have the chance of being repealed. On the other hand, the Finance Minister tells us that a Bill to continue all these taxes finds a place on the agenda of the current session. Sir, frankly speaking, I do not understand why an emergency measure should be allowed to remain when the state of emergency is no more. If the Finance Minister honestly feels that there is at present no emergency of the nature that existed in 1935, I do not see why he should not take courage in both hands and provide relief to the taxpayers by repealing those taxes. I feel that for the Minister of a National Government such relief is not only expected by the people but is also well-deserved.

Coming to the expenditure side of the Budget, let me first take up the question of debt settlement. I do not think that merely by establishing Debt Conciliation Boards in large number, the problem of rural indebtedness will be solved. In fact, instances are not rare that, in the rural areas these Boards have not been able to satisfy the real needs of the rural population. I think nobody knows it better than the Finance Minister himself. Before plunging headlong into huge expenditure over such Boards, I am of the opinion that it would have been better if workings of these Boards were inquired into and their defects rectified. As I pointed out just now, these Boards have not been able to serve their purpose, because, most of the rural population is not getting fresh loans for their agricultural purpose and the whole machinery of rural credit has thus been disturbed to the great disadvantage of the agriculturists. This brings us to the question of rural credit to which the Finance Minister has made a reference in his speech. I think if the assurance of the Hon'ble Minister to the effect that distinct type of credit machinery in the rural areas will be set up for providing loans against security of crops and other movable stocks is acted upon as early as possbile, some solution may at least be found to provide cheap credit to the agriculturists. But till now, there is hardly any satisfactory machinery of rural credit, and I can say from my personal experience that most of these Central Co-operative Banks are not in a position to advance fresh loans to the rural societies for want of funds and thereby they are not being able to help the agriculturists in times of their need. I see, Sir, only Rs. 14,74,000 has been provided in the Budget, an increase of Rs. 2,39,000 only from the revised figure of 1937-38—which will probably go to clear off the previous debt as well as to make up the loss of the department. Thus no money will be available for augmenting the resources of the Central Banks. So I appeal to the Hon'ble Finance Minister to provide more money in this department and also to further increase the inspecting staff for proper management of affair.

In so far as Education is concerned, I do not think that for a province like Bengal Rs. 5 lakhs is sufficient to cope with the problem of primary education. It is, Sir, the problem of problems for Bengal. We would like to see before long the introduction of compulsory free primary education without further taxation. As regards the expenditure on female education—it has not been shown separately. Hence we do not know what amount is going to be spent on this head. It is regrettable that many district headquarters have not been provided even with a Girls' High English School. So, I earnestly invite the attention of our Hon'ble Chief Minister in this respect and especially request him to establish one Girls' High English School at Faridpur district headquarter or to raise the standard of the Government Middle English School which will be less costly.

I do not understand what is meant by "Youth Welfare Work" for which Rs. 2½ lakhs has been provided in the Budget. The explanatory memorandum also does not say anything on this point.

As regards Road and Waterways, Sir, I am tempted to quote a few line from the statement made by the Hon'ble Finance Minister which runs thus: "We are very behindhand in our expenditure in the Bengal share of the Central Petrol Fund and we are not likely to receive any further monies from the fund until we have spent the accumulations on account of previous years which were placed at our credit last." The unspent balance on 31st March, 1936, was Rs. 43⅓ lakhs. Government budgeted in 1937-38 to spend Rs. 22¼ lakhs but the actual expenditure was about Rs. 17 lakhs and this year's budget allotment is Rs. 26 lakhs and the Hon'ble Finance Minister expects two years' accumulation of our share of the Petrol Fund which will then be outstanding. So vigorous attempt should be made to utilise this fund for the proper upkeep of old *mufassil* roads and also for original works as very few roads in *mufassil* are motorable and without good roads and waterways no trade and commerce can thrive. In our Faridpur district there is a very important road which connects north Faridpur to south—known as Bhanga road. Mr. King, the Special Officer, inspected that road when I was Vice-Chairman of the District Board and recommended for its acceptance in the Road Development Committee. This road may connect Barisal *via* Madaripur-Bhurghat road. This is a scheme which has been approved of by the Government but for want of allotment was not yet undertaken. I hope the Hon'ble Maharaja will kindly look into this road and the money spent over it will no doubt be utilised, and not at all wasted.

Mr. PRESIDENT: The hon'ble member may now conclude his speech.

Rai Sahib INDU BHUSAN SARKER: Yes, Sir, I will not take much more time.

As regards Salt industry, Sir, only Rs. 2,000 has been provided for a subsidy to the Chittagong Trading Union, Ltd., only for an experiment on the manufacture of salt on a commercial scale (on the sea-coast in Cox's Bazar). But there are three other working companies, viz., (1) The Premier Salt Manufacturing Company, Ltd., Midnapore, (2) The Bengal Salt Co., Ltd., Midnapore, (3) The Pioneer Salt Manufacturing Co., Ltd., 24-Parganas, but no allotment of subsidy was made in their favour, though Rs. 61 thousand was received from the Central Government. In 1931 the Government of India with a view to protecting certain inland salt industries imposed an additional import duty on foreign salt which is 1½ anna per maund, but no appreciable expenditure has been made under this head.

In conclusion, I again congratulate our Finance Minister on providing Rs. 2 lakhs more for quinine, etc., and other increased grants to other nation-building works.

Khan Bahadur ATAUR RAHMAN: Sir, I must thank the Hon'ble Finance Minister for his goodness in inviting our suggestions on the Budget. We had great hopes that with the introduction of Democratic Government, we shall have *mukti* of our land but we are far from it to-day. If we carefully go through the voluminous books of figures prepared in the Bengal Secretariat, we cannot but admit with regret that we are practically where we were. Is there any evidence in the Budget to show that it will improve the condition of the starving masses? Can it be done by tinkering with the problem and providing a few additional lakhs in the nation-building departments and spending that by creating some new jobs? It is indeed a very good budget for one class, I mean the middle class and the intelligentsia of the province for whom the Government apparently exists. The Finance Minister has rightly said that he has been able to make provision for the employment of more than 5,000 unemployed young men. There he is successful but what about the five millions or more of the agriculturists who are starving? Those half-measures will never secure country's *mukti*. When I shall have enough to eat, health to enjoy my life and thatched roof to shelter my head, I say, I can have my *mukti*. Have we got these? And does the present Budget give us any hopes? The present Ministry may succeed in remaining in office for their five years' term by hoaxing the public by promises. I ask what would be the result of these enquiries and commissions? I would appeal to the Cabinet to do something tangible. The Ministry knows it very well that the agriculture of west Bengal depends on proper irrigation and the health of the country depends on proper drainage. Instead of frittering money in a hundred little things and creating new jobs for supporters and sympathisers and increasing the expenditure of administration, the Government should concentrate all its resources and make the agriculture of the country a paying concern. Malaria will not be eradicated by quinine alone. No amount of spray will kill mosquitoes —remove the root cause of our trouble and give the people enough to eat and these will disappear. I would urge the Cabinet to take some areas and draw a programme of these works and actually do some work on these lines if they intend to do some good to the masses who are starving.

I hope it is fresh in the mind of every one what Sir James Taylor said the other day. The country has lost its fertility and the outturn of crop has gone down. This must be improved and this cannot be done unless bold steps are taken up by Government. The Ministry may say—where will you get the money? The reply is—you will

always be short of funds, if you go on spending all your resources on the salary of the top-heavy administration. There is practically no reduction of expenditure under any head.

Take general administration. From Rs. 94 lakhs in 1934-35 to Rs. 151 lakhs in 1938-39. Administration of justice from Rs. 94 lakhs in 1934-35 to Rs. 102 lakhs in 1938-39. Half the revenue goes under the three heads—general administration, administration of justice, and police.

I would urge with all seriousness on the Ministry to reduce the expenditure on administration if they mean to do any real good to the people. I must say that there are ways of doing it.

Why not abolish all the posts of Commissioners, and Deputy Inspectors-General? Even the posts of Superintendents of Police can be abolished and the District Magistrate can carry out his work with the help of a Deputy Superintendent of Police. Even to-day the Magistrate is the head of the Police in the District and his work has diminished, for he is no longer in charge of Income-tax or appellate criminal justice or the Education of the district. Every Department is top-heavy. Over and above this I see provisions have been made for some highly paid appointments in many departments. Will you be able to improve the cattle by appointment of more veterinary staff? If you really mean to have good animal husbandry and profitable agriculture, pass laws to restore grazing grounds. Every old man here will agree with me in my assertion that cattle are ruined, because the grazing lands are let out by zemindars. Appointment of officers in Co-operative Department and establishment of Debt Settlement Boards alone will not solve the question of indebtedness of agriculturists—please find out if they have enough to eat and then the question of surplus to meet other demand will come. Remove the disparity of prices. Just now Dr. Mookerji said that the cultivators have to pay much more for the things which they require than what they get for the produce of their lands. This disparity must be removed. Otherwise if the cultivator has no surplus fund to repay the debt which has been composed by the Debt Settlement Board, he will be in a most helpless condition. I would say the activities of all the departments will be of no avail till the agriculture is paying. The cultivators will never be saved if their earning capacity is not increased, and that can be done only by the development of big as well as cottage industries. This cannot be done by the provision of a few lakhs in the Budget in the way of playing with a few industrial projects. The vital question must be considered from all its aspects. You will say, we have no power.

I know you have not that at present. If you only assert yourself, and I think, in a planned manner, ways will be found. I must say with all the emphasis that the method suggested by the Government to save the province's industry is nothing short of child's play or worse. As I

said last year, and I repeat the same this year, it is a mockery to try to revive the home industries in the face of foreign competition. Even to-day sixty per cent. of the cloth of Bengal comes from outside—why should not the Government take steps to organise textile industries in the province on the lines of the Lancashire Cotton Corporation? In the past our cotton woven in our own looms has clothed us, our rice husked with our *dhenki*, and oil pressed in our own *ghanis* have supported us—why shall the Government not take direct part in restoring those conditions?

Government's Excise policy is most puzzling to me. Cheaper liquor is introduced in all parts of the Province, and yet we are told the Government is in favour of prohibition. Restriction to sale of opium is withdrawn, time of sale of liquor is extended and yet we have prohibition. It is said this is done for stopping smuggling. I find that the cost of the department has increased from Rs. 16 lakhs in 1934-35 to Rs. 20 lakhs in 1938-39. It is not creditable to the administration of the department if it failed to stop smuggling over such long periods, with such costly staffs. More facilities are being given for getting new converts to drugs and liquors. What is the chance of illicit distillation in the remote villages? Why the cheaper liquor was not confined to areas where illicit distillation was possible such as mill areas? Country's revenue will be of no use to the poor if money is lavishly spent on patronage, on lawyers and officers to conduct cases like that of the Gariahata case.

We want primary education—the Government gives us three officers who go to foreign country at our cost. We are dying for want of irrigation. The Government gives us a Waterways Board in which fat salaries will be disbursed to a few fortunate men. We want industries and we get an increase in the staff of Government technical institutions and schools. We want our unemployed young men of the middle classes as well as of the agricultural masses to get opportunities of work, and we are given an Unemployment Officer at a fat salary, who will himself remain unemployed most of the time. We want solution of the problem of rural debt, we are told that favoured officers will be sent to Denmark. There is a proverb that something is rotten in the State of Denmark, and there we shall send officers, for what purpose Government alone knows.

A bold scheme of irrigation to save the area under cultivation and protect life and health of the people particularly in west Bengal, a bold scheme of industrialisation by which the pressure on the land may be relieved and the unemployment of the masses removed, a humane and liberal policy of primary education by which illiteracy, ignorance and superstition may be liquidated. These are some of the crying needs of the province, and the Budget gives us a stone instead of the bread for which we cry.

Mr. LATAFAT HOSSAIN: Mr. President, Sir, I am very glad to note that the Finance Minister has increased the grant for labour welfare work from Rs. 10,000 to Rs. 20,000. I do hope that the Labour Minister will make suitable grant out of this money for night schools, playgrounds, co-operative shops and child welfare in jute mill areas. He must appoint Welfare Officers to visit mill areas, induce mill authorities to expand their welfare schemes, such as, medical facilities, housing of the workers, refreshment, rooms, etc. This is the only way to convince workers that the Government is sympathetic towards their troubles. At the present time there is no Labour Officer as a connecting link between Government and Labour and it will be the duty of the Welfare Officer to keep Government informed of grievances of labour. At the present time Police Officer does this work but police report is not reliable. Such officer will also co-operate with Trade Union in mill areas. Such officer will also induce mill authorities to start co-operative credit societies.

I offer my hearty congratulations to the Finance Minister for his satisfactory Budget.

Adjournment.

The House then adjourned till 2-15 p.m. on Wednesday, the 23rd February, 1938.

Members absent.

The following members were absent from the meeting held on the 22nd February 1938:—

(1) Ismail, Khwaja Mahammad.
(2) Goswami, Mr. Kanai Lal.
(3) Jan, Khan Bahadur Shaikh Muhammad.
(4) Mookerji, Dr. Radha Kumud.
(5) Mukherji, Rai Bahadur Satis Chandra.
(6) Ormond, Mr. E. C.
(7) Wilmer, Mr. D. H.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 23rd February, 1938, at 2-15 p.m., being the fourteenth day of the First Session, pursuant to section 62(2) (*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

Budget Discussion.

Mr. PRESIDENT: Order, order. The House will now resume further discussion of the General Budget. Khan Bahadur M. Abdul Karim.

Khan Bahadur M. ABDUL KARIM: Mr. President, Sir, although no thanks are due for a bare statement of the truth, still, as a matter of courtesy, we must offer the Hon'ble Finance Minister our thanks for the nice things he has said about the position and prestige of this House and the wisdom and sobriety of judgment, and what not, of the individual members and also collectively of this House. This is all the more appreciable, because the House—I am sorry, Sir, that the Hon'ble Finance Minister is not here——

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I can assure my hon'ble friend that I am here to take notes on behalf of the Hon'ble Finance Minister.

Mr. NARENDRA CHANDRA DATTA: Very much obliged.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Thanks.

Khan Bahadur M. ABDUL KARIM: We appreciate it especially as under present circumstances. This House has felt sore for some time due to the cold shade of neglect it has received from the Ministry, and although that feeling has found expression on the floor of this House now and then, in the case of senior men like myself, particularly the leaders of the various parties in this House, there are thoughts

that sometimes lie too deep for expression. Therefore, it has come down to us like a welcome drop from heaven, or so to speak, a good sun-shine after a heavy shower.

The Hon'ble Finance Minister has, in all humility, and, I believe, in all sincerity, asked for the ready help and co-operation of the members of this House by way of helping him with valuable suggestions. It is only meet and proper that we should meet him half-way and tell him what in our judgment is the course which the members of the Cabinet, and more particularly the Finance Minister, should follow. But it seems to me that the procedure adopted now for the first time is not likely to bear the desired fruits. For only once a year, for us to enter into a discussion of all the varied subjects of the budget with the Finance Minister is a procedure which would not generally commend itself to all. I have one suggestion to make therefore, viz., if the Ministry, or for the matter of that, the Finance Minister, is really anxious to have the advantage of our riper experience and judgment, it is only right and proper that he should constitute a Standing Committee of Finance composed of members and leaders of both the Houses—he himself being the President. There is precedent for this; in the Central Legislature there is a permanent Standing Finance Committee, and, as far as my own experience goes, when I became the Chairman of the District Board, I had a Finance Committee constituted to formulate proposals for consideration at the time of discussion of the General Budget of the District Board. That is one of the suggestions which I wish to make, for I believe that the members thereof will be able to take part in all the stages of the proceedings of the Finance Committee and would be able to render whatever assistance they can to those who control the administration. This is one suggestion that I wish to make for his serious consideration, and this is especially now necessary because this House has got no representative on the Cabinet. Therefore, as they say in up-country proverb *"Boti nahee tow shurwa hi sahi"*, i.e., broth may suffice if no meat is available, you can at least have the result of our deliberations and discussions in that Standing Finance Committee.

There is another reason, Sir, in favour of my proposal, and it is this that if we are able to discuss all these matters in the Finance Committee, you can make the passage of the Annual Statement smooth and easy on the floor. Not only that. There is a third advantage inseparably attached to it, viz., that we, the representatives of the people, are really political enthusiasts, and like the lunatic in Shakespeare, we see behind the screen more devils than the vast hell can hold. Therefore, this provides another way of taking us into confidence not only as regards the consideration of the budget matters but also as regards other matters connected with the general administration.

Sir, the second point that I wish to impress upon the Hon'ble Finance Minister is this: I do not pretend to be anything of a financier. Although Burke says that "Law" is equal to all the other sciences in the world put together, still I do not claim to be anything of a financier. But I have this advantage to my credit that I had the peculiar good fortune of associating myself with two of the most eminent financiers of continental reputation in the persons of Sir Basil Blackett and Sir George Schuster, and with whatever elementary knowledge I could pick up during the five years of my membership of the Central Legislature, I believe that a financier's duty is not what is conceived to be his duty by the Finance Minister of Bengal. On that point, Sir, it will not do for the Finance Minister to think like this: I have got this large amount of money in the coffers of Government, and I am going to distribute this money under so many heads; that is to say, whatever the rule may be, I must cut my coat according to my cloth, as the phrase goes.

This rule may apply in individual cases, but in national concerns, the process is reversed. If I go to a tailoring shop to make a coat for me, I take the quantity of cloth that is necessary for me to have a coat made which will exactly fit my person. But this process is reversed in the case of finance which has to be decided according to national requirements. Therefore, the Hon'ble Finance Minister's duty is to know what are the urgent public demands. He has to ascertain the amount on the right side of the budget, that is to say, the expenditure that is absolutely necessary for keeping the administration working; and the skill of the financier consists then in finding out that money for those national purposes. The answer that the Finance Minister has given to us is this—"here I have got only thirteen crores of rupees and your demands are so many; well, I can only mete out doles". I do not characterise this as a propaganda budget, as was stated by Mr. Humayun Kabir. I say the process here has been exactly reversed. The financier's duty consists in finding the money absolutely and urgently necessary for administering the national concerns. That principle has not been followed and I wish the Finance Minister to remember this aspect of the canon of finance. Of course the opinion is mine exclusively.

The third suggestion that I would make is this: that in spending money for nation-building purposes you cannot overlook the most important landmarks in the country—I mean the units of local self-government. As to the proper agency or channel through which this public expenditure should flow, you cannot overlook the importance of that existing agency forming the units of administration in this country, viz., the union boards which came into being in the year 1919, exactly the year in which the Montagu-Chelmsford Reforms were introduced in India. It wil not do for you to employ any number of

merry-go-round people and send them out into the country without financing those units and without having the nation-building activities of the country realised through that agency. I say this with special reference to a number of appointments that the Hon'ble Finance Minister proposes to make in the current year. I say that there are 5,000 union boards with nine members for each, that is to say, 45,000 sub-overseers, overseers *versus* supervisor. He wants us all to be economic and political engineers and under these political and economic engineers we have an army, or 45,000 to 50,000 people, who have already had their training since 1920—for the last seventeen years—people, full of hope, full of aspiration, full of capacity for work. Try to utilise that agency instead of wasting money for the creation of suitable berths for the favourite few. You employ that agency and whatever money you have to expend on nation-building departments must be spent through that agency for legitimate and proper use under the guidance of the existing Circle Officers, Debt Settlement Officers, Subdivisional Officers, District Magistrates and Commissioners.

As for the appointment contemplated, namely, that of Development Commissioner, what for? There are eleven Development Ministers here. If they do their duty properly, there will be no necessity for this new appointment. There was a time when one Lieutenant-Governor could effectually administer the three provinces of Bengal, Bihar and Orissa. (Question from the Treasury Benches.) But now we have the good fortune of having as many as eleven Ministers. Sir, I have made a little digression.

When the Finance Minister cannot meet the necessary national demands with the money at his disposal there are only two ways open to him—one is the imposition of further taxation and the other retrenchment.

As time is very short I shall have to be very brief. Now, Sir, I have included in my arguments the case of the Directors, Commissioner and all that: You need not increase one single appointment. You have already got an army of 45,000. I will remind the Hon'ble Finance Minister that the task of course is of great immensity. The Chief Engineer, I place him at the top of us all, who has to deal with the abysmal rush of the Naigra, must not be provided with tools that are good enough for the construction of the Damodar Canal or the like. As the situation is grave the remedy should also be very drastic. If the Finance Minister finds that a national calamity exists—I should call it a national calamity—should he not be justified in resorting to a loan which of course means taxation for the future with interest? Are there not instances in which to meet the situation you cannot go on like before and that when the people are actually in their death bed, you cannot go on like that? I remember Lord Curzon saying when there was an outbreak of famine in Berar—"as long as there is one single

pie in the coffers of the Government of India, I will not allow one single man to die." Be bold, none but the brave deserves the fair. If the situation is grave, the remedy taken should also be grave. If you are really serious about industrialisation of the country, emancipating the cultivators from the grip of debt, from the grip of disease, it is your duty to do it at once. There is no time to lose with Hannibal at the gate. There is no time for discussion and consideration and all that. Be bold—that is my advice to the Hon'ble Minister.

As time is short, I am simply placing only a few points before the Hon'ble Finance Minister. During the last budget, I took up only one question and that was education and hinted at others, that is to say, that there was maladministration, malappropriation and maladjustment in the budget.

As to education, there has been enough discussion and I find that all the members of this House are unanimous in the matter having regard to the statement of the Finance Minister that he has to consider all these financial proposals against a human background. Certainly he will agree with me and there can be no manner of doubt that the question of education should receive his first attention. But what has been done? I may refer to certain figures. Bengal spends 1·3 lakhs of rupees per million on primary and secondary education—only 1·3 lakhs per million on primary and secondary education. Punjab spends 4·4; Madras spends 3·3. In this matter the Finance Minister could not have any justification for not giving a very fair share of money of Bengal for the education of the people in order to improve the condition of the people.

I would draw the attention of the Finance Minister, particularly to the finding of the Auxiliary Education Committee and of the Sir John Simon's Statutory Commission in which it is stated distinctly that in Bengal the expenditure on collegiate education is disproportionately very large, with the result that we are creating disgruntled and disappointed graduates in larger numbers to the actual impoverishment of the people who should have general education to enable them to follow the ordinary pursuits of life. Whether or not he should find it necessary to cut down the expenditure or impose fresh taxation or he should do this either by retrenchment of administrative expenditure or by readjusting the expenditure from this minor head to that, it is for him to consider. In this connection I ask him to consider if he will please consult the economist whether or not, in the matter of regeneration of a decomposed country—I would prefer to call this a "decomposed country"—the principle and the law of supply and demand should be given effect to.

Before I leave this subject of education I would say to my hon'ble friend Mr. Kamini Kumar Dutta, who struck a discordant note on the first day rejecting the proposal, though not in so many words, for a

Purdah College. He understood what was meant or intended by the Government to be a Purdah College, because he said in the last part of his statement that if we were going to give something for a Purdah College, why should not we give something to the Bethune College also? Certainly, by Purdah College he understood a College for Muhammadan girls. I do not like to create any bitterness in this House. I would simply warn my old and esteemed friend not to touch or try to lift the veil of the Orient underneath which there are so many good things which his philosophy, social, political or economic cannot dream of. That is all the observation that I wish to make.

Now, I will congratulate the Hon'ble Finance Minister for giving effect, partially though, to the recommendations of the Hartog Committee, that at least Rs. 50,000 should be set apart for scholarship for the backward Muhammadan population. I emphasize the cause of Muhammadan education not because I am a Muhammadan, but also in the general interest of the country. We all know that as long as the Muhammadans are not properly educated, they will remain a clog not only to the wheel of administration but also to the chariot of Indian nationalism to which we all aspire. Therefore my submission to this House, to the Finance Minister, to the Ministry and, through my utterances here to the world outside is that, if you are really anxious to impart education in nationalism you should train up your brothers. I do not think much of the capacity of a race that would allow a calf to stand between liberty and slavery. I have rather a very poor opinion of the foresight and intellect of a race that would allow a four-footed animal to stand between liberty and slavery. It is a matter, irrespective of caste, creed and nationality, on which we should put our hands—we should put our shoulders to the wheels of Mussalman education, particularly if we aspire to reach that stage which we call *swaraj*.

As regards Muhammadan education in particular, I have made a thorough calculation of the amount that has been provided. There is a particular grievance of the Muhammadan community against the educational allotment by the department. Only Rs. 37 lakhs out of a total expenditure of Rs. 1 crore 50 lakhs is spent for Muhammadan education and that is the reason why they are not getting all the facilities and opportunities for advancement to be able to keep pace with the Hindus in the national march.

Coming to the budget itself, it does appear to me, to use a Miltonic expression, "in a shape if shape it might be called that shape has none." That is how I can characterise this budget. Because I have to shorten my speech I characterise this curtly like that.

Personally I am unable to congratulate and I shall refuse to congratulate the Finance Minister until I have seen that he has framed

the budget in a proper way so as to meet the requirements of the nation and I do not know how long it will be before I can congratulate my hon'ble friend who happens also to be my own countryman. Knowing him as I do I have held him in very high regard. I came to regard him as a true patriot even from the time when he left his studies to join the *swadeshi* movement in his early days. I have watched his career from a fair distance with alacrity and enthusiasm of a countryman and I believe that coming as he does from Mymensingh through which the only he-river in India flows—Brahmaputra—he is a man of superhuman genius.

As a member of the legal profession I have made some studies in what is called psycho-analysis because that enables me to bring out the mind of a man; whatever he might say by his mouth as to what he really means, we have to find that out. And as a result of my examination I have found that both the head and the heart of the Finance Minister are in good order. The result of my examination reveals that both these important organs of his are quite sound. On further analysis, and by applying my X-ray, I find that he has one defect, however, and it is this: he suffers from an atrophy of the hands. When my friend Mr. Lalit Chandra Das the other day said to the Finance Minister "you take up courage in both hands and try to save the country from impending ruin", we found that he was quite unable to do this. Looking further at the analysis I discovered the secret of this atrophy, and it is this—probably he shakes hands too much with the superior officers of the Secretariat ("hear, hear"). Now, Sir, most of these European gentlemen, I should say—I know. My family is the oldest official family in Bengal, and I myself have also mixed with them for the last forty years of my life——

I have found that these European gentlemen are a wonderful people. Once you go to them you cannot but be a convert. These European gentlemen exercise a truly magical influence and from personal experience I have found two gentlemen who were ultra-nationalists in the beginning—those who came to scoff but remained to pray. One gentleman was a member of the Central Legislature, another was a very high personage in Bengal, and the third person, I should say, is our present Finance Minister (Hear! Hear!!). Therefore my suggestion about the formation of a Finance Committee with members of both Houses is meant for the proper strengthening of his hands. If he feels any delicacy to make any proposal before the Cabinet presided over by His Excellency the Governor, he will find a very good escape by placing the opinion of the Sub-Committee, who are not suffering from any such handicap. I do not like to detain the House much longer, but there is one other point on which I should like to say something, and it is with regard to the provision that has been made in the budget for the construction of a Chamber for this Council. I

cannot leave the subject without referring to it very shortly. It is true that we very badly require a House for ourselves, and that a separate House would from the point of economy conduce to a good deal of gain as regards the amount that is spent for that. Under the present circumstances we can work only two hours a day. If we get a separate House for ourselves we can work for four or five hours a day, that is to say, the incidental daily expenses would be very considerably reduced by the erection of a separate building. Now, Sir, as to the estimates for this building, I have no faith in the Public Works Department myself, because we people in the *mufassil* call this department a Public Waste Department. The estimate according to the budget has been put at Rs. 15 lakhs. However, the amount may be left for adjustment by careful handling. But it is essential that we should have a decent building. Of course we do not claim the full amount this year, because although we are democrats from the beginning—we all Mussalmans—the first democracy descended on the wild sands of Arabia 1,400 years ago, and by entering this House for the sake of our co-religionist brothers and brethren of the Hindu community, we converted ourselves into political Yogis! We went against our own interests in supporting the Bengal Tenancy Act; although most of us are zemindars and talukdars, still we have put the axe at our own interest, and we are prepared even to rush to what is the next stage, namely, the Buddhist's *Nirvana*, if that is necessary for the protection of the interests of the multitude and of the millions of people of Bengal, whose salt we have eaten; it would be an act of highest ingratitude on our part if we do not try to help them, specially the elder people like myself, who will very shortly have to go back to their Creator, and have to give an explanation for what they have done for these people. In that view, Sir, we are prepared to admit any reduction in that expenditure to whatever limits might be decided upon by the officers of the Government.

Mr. PRESIDENT: Order, order. I have received an intimation from fourteen hon'ble members of this House who are anxious to take part in the general discussion of the budget, and we have hardly eighty-five minutes left. The House certainly expects the Hon'ble Finance Minister to take at least three-quarters of an hour as he will have to meet the arguments and the points that have been raised by the different speakers. It is now for the House to agree to put a time-limit upon the speeches that may be made hereafter. I accordingly suggest that five minutes be the time fixed, and if this limit is rigorously applied, then about eight or nine more members can take part. I would like to know if that is the desire of the House.

Mr. NARENDRA CHANDRA DATTA: May I suggest, Sir, that the Hon'ble Finance Minister make his reply next day or another full

day be fixed for this purpose with the permission of His Excellency the Governor, if possible?

The Hon'ble Mr. NALINI RANJAN SARKER: I am quite agreeable if you fix another date for my reply, but I request that it should not be to-morrow, but any day after to-morrow.

Mr. PRESIDENT: Even then, as fourteen members of this House have already intimated to me their desire to take part in the discussion, I think a five-minute limit will be necessary, because we have got eighty minutes at our disposal, and it would permit of only sixteen members speaking.

The Hon'ble Mr. NALINI RANJAN SARKER: If you fix another day, Sir, for this purpose, then kindly provide one hour for me, as so many interesting points have been raised to which I shall have to give a reply.

Mr. PRESIDENT: The House very much appreciates the Hon'ble Finance Minister's consent to take the debate to another date, but I think that this discussion, so far as the non-official members of this House are concerned, must be finished to-day. So I take it that it is the general desire of the House that a five-minute limit be put on the speeches to-day.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Do I understand, Sir, that those who have not yet sent any intimation of their desire to speak will not be allowed to speak?

Mr. PRESIDENT: Fourteen members have already intimated their desire, and I take it that other members may also have a chance to speak.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh. I hope I shall be one of those lucky men, Sir.

Begum HAMIDA MOMIN: Sir, in speaking on the Budget estimate for 1938-39 I will confine myself to two items only, i.e., education of girls and particularly of Muslim girls and medical expenditure.

Sir, it is a matter of gratification that provision has been made for a purdah college for girls in the list of original works. It is also a hopeful sign that the amount for "Grants to girls' schools" has been enhanced by Rs. 70,663 and capital grants have been provided for buildings to girls' schools.

The creation of special stipends for girls of educationally backward classes is a laudable action on the part of the Hon'ble Education Minister and this will remove to a certain extent a long-felt want all over the country.

It is, however, a matter of considerable disappointment to us that no attention has been given to some urgent needs of some Muslim girls' institutions. For some time past the Mussalmans have been agitating for a permanent habitation for the Sakhawat Memorial Girls' School, the only Muslim Girls' High English School in Bengal. Plans and estimates for a building were prepared long ago and I believe they still exist in some corner of the Director of Public Instruction's Office. The Hon'ble Minister for Education cannot be unaware of this fact and of the persistent demand of the Muslim community for a suitable building for this school. Yet no provision has been made in the budget even for a beginning. Although the school has recently been moved to a rented house, more commodious than the previous one, the accommodation available is not sufficient for this growing institution. The number of girls in the school has already exceeded three hundred. The hostel is full and we have to refuse many applicants for accommodation there. They are in the waiting list, which we can never give effect to until and unless proper arrangements are made for hostel accommodation. In this building there is no proper accommodation for the Head Mistress which is very essential for the proper control and management of the school and the hostel. At present the Head Mistress is obliged to live away from the school. A house built for residential purposes can never be a suitable building for a school and its hostel, however commodious it may be. I, therefore, urge that the Hon'ble Education Minister will make some provision for a beginning at least for a building for the Sakhawat Memorial Girls' School and its hostel this year.

Another item that I hope I would receive attention from the Hon'ble Finance Minister was the provision for improving and developing the Practising School attached to the Government Moslem Female Training School. Some time ago as a member of the Managing Committee of this institution, I made some suggestions in this respect to the Director of Public Instruction and received a very sympathetic reply from him. He assured me that some provision will be made towards this, in the next budget. It was a great disappointment to me not to find any mention of this school in the budget. It is common knowledge that the education of Muslim girls in this province is very much behind time and is crying for help and assistance from Government whose duty it is to afford facilities for such education in every direction.

It is said in many quarters that in the present Government the Muslims are in power. The Premier and his Muslim colleagues have often been criticised for alleged partiality to Muslims. I would like to ask such critics whether there is any indication of such partiality in

the whole of the budget presented by the Hon'ble Finance Minister? Out of a total additional expenditure of Rs. 15½ lakhs the Muslim girls' education receives only a paltry sum of Rs. 16,917. The encouragement of the education of Muslim girls is one of the most crying needs of the country and yet scanty or no provision has been made in that direction. It cannot be that the Hon'ble the Education Minister is unaware of of these vital necessities of the community. Where is then the explanation for the omission of such provisions in the budget? Either the Hon'ble the Education Minister is callous or he is powerless in the hands of an unsympathetic Finance Minister.

My next point is the Children's Ward in the Medical College Hospital. As a visiting member of this hospital I have had the opportunity of visiting this ward on several occasions, and to my great surprise I learnt that there was no accommodation to segregate children suffering from infectious diseases. This is a very serious state of things.

Then, again, this ward which consists of one medium-sized room only is very inadequate for the large number of sick children that come in. I have seen actually children's cot placed in the passages in Women's Ward.

It is useless for me to indulge in a long discussion over the evils of such a state of things. Every one can realise the agony and inconvenience it can cause to both the adult and the child patient. An extension to the Children's Ward in the Medical College Hospital is an urgent demand. I hope the Hon'ble Minister for Local Self-Government with the Hon'ble Finance Minister will give his serious consideration to these items.

Mr. MOAZZEMALI CHAUDHURY addressed the House in Bengali. The following is the English translation of his speech:—

Mr. President, Sir, I start directly with the Budget discussion without any preliminary remarks. It is well-nigh impossible to do justice to a serious subject like the Budget within the short space of five minutes. In this year's Budget the Hon'ble Finance Minister has to some extent increased the amounts of grant under almost every item of expenditure, and many have congratulated him on this account. But I for one hold that circumstanced as the nation is to-day, an additional expenditure of two or four lakhs of rupees incurred here and there cannot save it from the jaws of sure destruction. He has allotted an additional amount of five lakhs of rupees for primary education. But in a country where ninety-two per cent. of the people are illiterate, an additional grant of Rs. five lakhs is to my mind like sprinkling drops of water over a desert!

Next, the attempt made for the establishment of Debt Settlement Boards, and the relief of agricultural indebtedness appears to me to fall under the same category. The steps taken by the Government for

the relief of agricultural debts in a country where agricultural debts amount to one hundred crore of rupees, are neither adequate nor expedient. For, I am of opinion that in a country where people are unable to pay even small amounts of rents, the measures formulated for the repayment of their huge debts represent but an absolutely unnatural effort. Upon an investigation we find that every family in Bengal, that is, every peasant family, possesses on an average six bighas of land. If six bighas stand for the average figure, we can easily assume that half the number of peasant families in Bengal have not got more than three or four bighas of land. The outturn of crops in three or four bighas of land is not sufficient even to provide the family with food for more than a period of six months, far less can it provide for the expenses of clothes or other necessaries. We know that the cultivators cannot pay off their debts simply because it is beyond their means to do so. They cannot even pay the rent to the zemindar for the simple reason that they have to go without any food. They would never have objected to the payment of debts or of rents, had it been within their means to pay. We have, therefore, to look at the matter from an altogether different standpoint and take proper steps for changing the existing state of things. In his budget the Hon'ble Minister has made provision for the employment of a number of unemployed persons of the middle class. But this is nothing in a country where twenty-five thousand candidates pass the Matriculation Examination and four thousand graduates are turned out every year. This problem too will have to be solved in a different way. The only means to solve it is to convert agriculture into a dependable means of livelihood. If in a country where eighty per cent. of the people are cultivators, agriculture can be made a dependable means of livelihood, thereby solving their problem of food and clothes, the remaining twenty per cent. may earn their living through trade, commerce and service. Hence, steps should be taken in order that agriculture might be turned into a dependable means of livelihood for the cultivators. In the first place, the extent of land under the possession of the cultivators is less than what may provide them with food and clothes. Secondly, the fertility of the soil in this country has decreased. Thirdly, the price which the crops fetch at present is too small. In order to provide against all this, it is first necessary to convert the land belonging to cultivators into economic holdings, of course, this will require time. Secondly, an elaborate scheme of irrigation is necessary and it should be framed at once. A committee should be appointed for this purpose. Thirdly, the minimum price for crops should be fixed and marketing boards should be established for the purpose of raising the price of agricultural produce. As regards education, I want to say that no greater wrong than what has been done in providing for education by imposing an additional education cess on the cultivators, can be done to a country. Mr. President, I have not yet been able to finish

what I have got to say. I, therefore, pray for some more time for winding up my speech and for discussing other important matters.

Mr. PRESIDENT: I am sorry, I have fixed the time-limit after consulting the House.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Mr. President, Sir, it is said that language was given to man to conceal his thought. It sounds a paradox, but unfortunately it is true in a very large percentage of cases. The Hon'ble Finance Minister the other day waxed eloquent over his profession of fidelity to this House. He ransacked his vocabulary to choose the best possible words to convince this House of his firm adherence to it and of his determination to treat with respect and great consideration the suggestions which the members of this House might make with respect to the Budget he has presented. He mourned over our statutory disability to effect any change in his Budget, but magnanimously assured us that he would not turn a deaf ear to our comments and criticisms. I hope that the Hon'ble Finance Minister will pardon me if I propose to X-ray his generous observations, and prove to the House that he did not at least on that occasion make use of language as vehicle of thoughts.

May I remind him of the appeal which I made to him last year with reference to his first budget to freely release his genius to produce a constructive scheme of economic revival comprehensive enough to ease the present situation which has been created by the grinding penury of the population of Bengal. Has he done anything to touch even the fringe of that great problem? I am not unconscious of the immensity of the task or of the difficulties that shall have to be overcome for its accomplishment, but is it too much to hope that the Hon'ble Finance Minister and for that matter the present Ministry in Bengal collectively should be able to demonstrate by their action in an unmistakable manner that they possess power and vision to formulate such a scheme and direct it to a successful termination? May I ask what has been done to establish agricultural colonies for educated young men, to help technical institutions, to advance industrial loans, to enable young men with necessary training, to set up small industries and agricultural farms, or to appoint a commission of enquiry to suggest measures and statutory actions of lasting value to cope with the evil as it is to-day, and also to determine if adequate protection has been extended to the infant industries in Bengal, and whether tariff was put on new industries to an extent which has discouraged the producers? May I also ask him as to whether he has done anything in connection with another suggestion of mine, namely, to provide money to compile statistics scientifically tabulated so as to fall in line with the general current of economic events in Bengal, and to create a department or bureau for

unemployment? Then, again, may I ask if he has bestowed any thought on my idea to reorganize the zemindari system on a co-operative basis within the scope of the Permanent Settlement for comprehensive agricultural and industrial improvements on modern and scientific lines? I made it abundantly clear that we need not be afraid of overproduction through proportionate mechanisation of labour in order to throw open new avenues of employment to educated youths of the middle class within the limits of such a federation as India by herself constitutes the potential market with an army of consumers. I again appeal to the Hon'ble Finance Minister to persuade his colleagues in the present Ministry to abandon such land laws as may prove hostile to such consummation and to place on the Statute Book such Acts as may lead to the fruition of a scheme like the one I have outlined.

Hon'ble Mr. NALINI RANJAN SARKER: That is my duty.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: But, Government should not only strive hard to solve the problems connected with——

(The hon'ble member at this stage reached his time-limit.)

Sir, what is going to be my fate? I crave the indulgence of the House to give me some more time. Sir, may I continue?

Mr. PRESIDENT: If that be the general desire of the House, you may continue.

Many members signified their assent.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, I convey my best thanks to the House through you, for their courtesy.

I wanted to tell the Hon'ble Finance Minister that it cannot be the duty of Government merely to solve the problems connected with the imposition of taxes and collection of revenue, but it is the duty of Government also to make liberal provisions for such all-round improvements by way of productive works as may enable the people to pay them. However that may be, I want the Hon'ble Finance Minister to tell the House as to what has been done about the formation of agricultural and land mortgage banks? Lastly, what money has he provided for more playing fields and gymnasiums to improve the physical constitution of the youths of the land and to help them to adopt the world standard in the development of recreative and physical training? Last year when I raised this question the Hon'ble Finance Minister made a feeble attempt, in a halty manner, to sidetrack me. When I asked

him for open-air swimming baths and other facilities for acquatic sports to serve our youths and to better their health, he did not hesitate to ask me to make use of the periodical floods in Bengal. That was a fine solution based on fine logic! But need I tell him that it is the primary duty of a Government to make the people committed to its care healthy and strong and to build up the manpower of the country within the radius of its administrative influence? Is it necessary for me to remind him that in Germany the Government not only controls the practice of gymnastics, but makes it compulsory for every child and adult to undergo a prescribed course of physical training. In France physical training is under State control. So, is it in Sweden, Denmark, Italy and Russia. The physical culture activities of Fascist Italy are organized on a national basis and are in charge of an Under Secretary of State for Physical Education. So it will not do for the Hon'ble Finance Minister to laugh away my vital suggestions and take shelter in despair behind the flood waters of Bengal. The present-day physical fitness movement in England in connection with which His Majesty the King Emperor lately made momentous observations, is an example for all nations. I shall, therefore expect a substantial reply from the Hon'ble Finance Minister this time and not a purile treatment as he meted out last year, because it is a problem of great importance. It perhaps transcends in importance many other national problems of the day. To fill up to the brim the cup of misery of this House, the Hon'ble Finance Minister has provided money for running various committees to deal with public matters of importance, although the members of this House have been excluded from those committees. He has provided a treasure, if I may say so, for eleven Ministers including himself, although there is not a single representative of this House in the present Bengal Ministry! This House is still without a Leader, and the prospect of Parliamentary Secretaries being recruited from this House is as remote as ever! What is the reason for this? I think it is almost a recognized constitutional principle that in any place where there are two Chambers, the understudy of the Minister is always taken from the House to which the Minister does not belong. But nothing has been done as yet to keep pace with that time-honoured policy. The only favour which the Hon'ble Finance Minister has shown to this House, and that for obvious reasons, is the provision of fifteen lakhs of rupees for a magnificent building which this House shall be able to call its own.

The Hon'ble Mr. NALINI RANJAN SARKER: Provision of only one lakh.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Perhaps, that is the thin end of the wedge. Any way,

we shall have to tell our respective constituencies that such is the regard of the Hon'ble Finance Minister for the wisdom and experience of this House of Elders, as he himself described it the other day, that when we pleaded for bread for our people we were given a stone. However that may be, Sir, following the example of the leaders of the European Group in the Assembly, I warmly congratulate the Hon'ble Finance Minister on his good luck, and I sincerely wish that his good luck may continue and stars may never cease to shine over his head.

Mr. NARENDRA CHANDRA DATTA: Mr. President, Sir, the time allotted to me is very short and so I shall try to be very brief. I was not only surprised but very much shocked by looking into the Budget the heavy provisions, substantially heavy provisions, for the detenus. I am really sorry that the Ministers did not see their way to release all the detenus before they introduced the Budget. At least the Prime Minister gave us to understand in this House that the policy of this Ministry was one of release and not of detention and that the detenus would be released gradually but since then about six months have passed. Still there are about four hundred young men in detention and if my study is correct, the amount is a pretty large one which has been provided for in the Budget for their further detention. If these men could be released, primary education could have about ten lakhs of rupees more. Every one in this House knows it that a Government is judged by the amount of civil liberties it can secure to its citizens. You know that as soon as there was provincial autonomy, people fervently expected that at least the detenus would be released. Some of them are rotting in jails and detention camps for more than ten or twelve years and they thought—and every one thought—that they would be released as soon as provincial autonomy was established in the province. Then, Sir, we were told that they would be released gradually but no explanation is forthcoming yet, why they have not been released. You will find that civil liberties are being trampled upon in this province in a very queer way and nobody is safe. The other day Babu Niharendu Datta Mazumdar, a member of the Lower House, went to Comilla to attend a meeting of the Kisans but he was served with a notice in the Railway train. As soon as he alighted from the train at Comilla, he was arrested and he has been prosecuted. Now I put the question to the House, and ask the Hon'ble Home Minister to say whether he did enquire into the matter. You all know that he had no intention to disobey the order. If this is the civil liberty of a member of the Lower House, nobody can hope to get the liberties under this Ministry here.

Now, Sir, I think there should be a convention in this House that when the Ministers have no right to vote in this House, they should

attend the Budget debate and should answer matters connected with their own departments. I think the House will agree with me that there should be a convention like this, but it is unfortunate that the Finance Minister has to answer all the questions himself. This is the only day when we can deal with the different aspects of the policy of the Ministry.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: May I rise on a point of order, Sir? What has the arrest of Mr. N. Datta Mazumdar to do with convention and the Budget discussion?

Mr. NARENDRA CHANDRA DATTA: Surely, it can be raised.

Then, Sir, as my time is short, I come to the question of political prisoners. I put a question and the House has heard the answer of the Hon'ble Home Minister. The answer is this that unless the man is about to die or unless he is about to be released in the normal course, he would not be released. Is that the answer that we expect from the Home Minister? We thought that the Home Minister was a man who had kindness, nobility of heart and was a gentleman, and a patriot above all, but I find that his answer is very miserly and unsatisfactory.

Another thing to which I wish to draw the attention of the House is this: all of you have studied the communique issued by the Governor-General of India which has been printed in to-day's newspaper. There we find a fact which ought to set you considering the matter very seriously, as you know that in two provinces Ministers have resigned with regard to the question of releasing the political prisoners.

Rai KESHAB CHANDRA BANERJEE Bahadur: On a point of order, Sir. Are we discussing the Budget or the detenu question?

Mr. NARENDRA CHANDRA DATTA: Certainly, I am discussing the detenu question, because it arises out of the Budget.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: It is not very obvious to us.

Mr. NARENDRA CHANDRA DATTA: Then you must learn something more and it will be obvious to you.

This resignation on the part of the Ministers in two provinces must have reaction on the adjoining provinces as to the release of these prisoners. The Governor-General says that he could not agree with the Ministers of these provinces to the release of the political prisoners.

Mr. REZZAQUL HAIDER CHOWDHURY: Mr. President, Sir, in speaking on the Budget, my first word must be one of congratulation to the Finance Minister for abandoning the idea of a fresh Tobacco Tax. This is no doubt a move in the right direction. Coming to the details of the Budget now, Sir, as regards education, the Bengal Primary Education Act which was rushed through the previous Council several years back has not come into operation *in toto*. Only in the district of Mymensingh the Act was introduced in full and the Hon'ble Finance Minister has assured us that the same would be introduced in other three districts very soon but what about others? What justification the Government has to select only three out of the seven districts which approached Government with the hope of getting additional grants? Of these districts, one happened to be the district to which I belong. Being in close touch with these institutions, I know with what difficulty the Board is dragging its own existence. The only resources are District Board grants and the usual grants from the Government which the District Boards get for Primary Education Fund. With the formation of a separate District School Board, the cost of the establishment has been increased, the income remaining same as before, with the result that some of the poor primary school teachers have been deprived of the monthly stipends as the District School Board cannot afford to give monthly stipends owing to financial stringency. It is a pity that these School Boards which have been formed at the instance of the Education Department, have not received any encouragement by way of an increased grant from the Primary Education Fund. The Government is distributing grants as usual. From this attitude of the Government you cannot blame the people if they are led to think that Government is not keen on spreading primary education in Bengal. I would humbly request the Hon'ble Minister of Education to introduce at once all the provisions of the Act in those districts where District School Boards are already in existence.

Turning to the question of sanitation and public health, I think, we all agree, that in Bengal this is a vital question. It is extremely regrettable that this department is not receiving as much sympathy and consideration as it ought to get. Anyone who has got any personal experience of the volume of health and preventive works to be done in different districts in Bengal, will agree that the allotment of funds for public health and sanitation fall far short of the requirements of the situation. With regard to page 102 of the red book, we find that allotment under head "Kala-azar charge" has been decreased this year. No justification has been assigned why reduction has been made in such an important item. In Noakhali which I have the honour to represent in this House, kala-azar has established itself on the vitals of the people. The District Board has opened several centres to give free treatment to kala-azar patients, but they

are too insufficient to cope with this fell disease. So we can legitimately demand more funds for this department by curtailing the expenses on other less important subjects. The Government has no justification to spend money for the installation of electric lights and electric fans in the schools and in the quarters of the public servants in *mufassil* towns as provided at pages 158 and 160 of the red book, while the public die of kala-azar without treatment. Now, Sir, coming to the subject of communication, it is very regrettable that this department could not utilise the funds allotted to it by the India Government, though there is a crying need for development of road communication. The Government propose to employ additional engineering staff to speed up the execution of the projects taken up by the department. Let us hope that the major portion of this amount be not spent in paying fat salaries of the additional staff. In this connection I would venture to suggest that the District Boards may be entrusted with this work under section 83 of the Local Self-Government Act and the Boards willing to take the same, may be requested to complete the work within a specified time according to the specifications suggested by the Public Works Department. This will save a lot of money. In the end let me thank the Hon'ble Finance Minister for his sympathetically considering one of the subjects of vital importance, I mean water-supply in rural area which is one of the crying needs of rural Bengal.

Rai Sahib JATINDRA MOHAN SEN: Mr. President, Sir, I congratulate the Hon'ble Finance Minister because, in spite of great handicaps, he has presented the Budget in a form and in a spirit which should commend itself to all reasonable and impartial minds. He has placed the total expenditure at Rs. 13¼ crores which is Rs. 1¼ crores more than the revised estimate for the current year. Out of this, one crore of rupees has been proposed to be spent for relief of rural indebtedness, the spread of primary education, improved methods of production and better marketing facilities, expansion of industries, improvement of public health and irrigation. This is well no doubt but we expected from him much more outlay of money. He has observed no doubt that he is sowing the seeds of improvement and that it will take time to germinate and sprout. He knows more than any one else here that the human soil of Bengal has become barren and exhausted and that one crore of rupees—though the sum appears on the face to be large—will be merely a drop of water to enable the seeds to germinate and sprout in the barren population of five crores.

The Bengal Agricultural Debtors' Act is a piece of hasty legislation and its workings have been entrusted to inexperienced bodies of men, many of whom do not possess the confidence of the local people. There is already a great discontent in the province where the Debt Settlement Boards have been formed. All fresh loans have been stopped and the cultivators have now to sell either their cattle or little

ornaments still left or their land to secure money to carry on cultivation or to meet urgent needs. The Act was conceived with the idea that the village *mahajans* were sharks in human forms and had done unmitigated evil to the country. I am not myself a money-lender, nor do I hold any brief for them. I admit that instances may be cited here and there in support but they will only prove the rule that as a class they were generally a very useful and necessary sort of men in village economy. The indebtedness of the cultivators is not due to the presence of the *mahajans* in their midst but due to their acquiring extravagant habits. The indebtedness increased by leaps and bounds during the period when the prices of jute and paddy rose up abnormally giving rise to the sanguine belief that the millennium was coming. Then there came a crash in a few years, and all the hopes were dashed to pieces. During this period not only the cultivators, but other classes of people as well, ran headlong into debts. So, the Agricultural Debtors' Act is not a solution of the problem as it aims at relieving the cultivators at the cost of others. The Hon'ble Finance Minister has said that over sixteen hundred Debt Conciliation Boards have already been established and that it is proposed to establish over two thousand new Boards next year. I think that before creating these new Boards, the result of the workings of the existing sixteen hundred Boards should be carefully examined by a Committee of experts. They also be asked to examine the conditions of the *mahajans* and of the Loan Offices and Banking Companies doing loan business and should be asked to report within as short a time as possible how the cultivators, the *mahajans* and the Loan Companies may be resuscitated without ruining one at the cost of the other. Crores of rupees of middle class Hindus and Mussalmans are in deposit in the Loan Offices in North and East Bengal of which payment has been stopped by the application of section 153 of the Indian Companies Act. I appeal to the Hon'ble Finance Minister and the Hon'ble Minister for Commerce and Labour to give their most earnest consideration in the matter and save them from ruin.

I beg to speak a few words regarding settlement recovery in Dinajpur district. Dinajpur is the only district in Bengal where settlement proceedings are going on and recoveries are being made. The Government have recently issued a circular to the Collector and Settlement Officer asking them to advise the zemindars not to file applications under section 105, Bengal Tenancy Act, for enhancement of rent or for settlement of fair rent or to proceed with such application in view of the proposed amendment of the Bengal Tenancy Act. In pursuance of such advice, most of the zemindars have withdrawn their applications and are also not filing such applications. The zemindars could have obtained enhancement of rent or settlement of fair rent of a considerable amount. This advantage has been obtained by the landlords of other districts. On behalf of the landlords of my district who

have acted in accordance with the advice contained in the circular, I request the Government to reduce the cost of recovery by half in order to compensate the loss which they are going to suffer.

I now refer to agriculture. Research, demonstration and propaganda have been rightly said to constitute the fundamental basis of planned attack on our agricultural problems. These things have been going on for some time past, but the net result produced has been practically nil. This is because the amount of money which was being allotted was most inadequate. The proper type of men to carry on these works is also wanting. I say this from my experience derived from coming in contact with a large number of men of this department.

In regard to jute, we find a lump provision of one lakh for jute census. It has been said that the census will form the basis for effectively regulating the crop to ensure a fair price to the cultivators. It will, it has been said, help to make a dependable forecast. I do not, however, think that this amount will be spent for any really useful purpose. On the contrary, if various kinds of jute seeds to suit different kinds of soil are distributed free with this money in the course of jute restriction propaganda, more useful result will be obtained. The census, if absolutely necessary, may be conducted through the agency of Circle Officers with the help of the Union Boards.

Mr. W. B. C. LAIDLAW: Mr. President, Sir, it seems to me that everything that could possibly be said on the question of next year's budget has already been said by my hon'ble colleagues in this House, and I will be brief.

The Finance Minister has had criticisms from so many quarters that he must be congratulating himself on having so fairly distributed the resources at his command.

I have but one point to stress. Those who would have the Finance Minister spend more on this subject or that would do well to exercise patience. For example, it should be remembered that even though the amount allocated to primary education be but a fraction of the amount which could, and I doubt not, will in time be spent on a fully developed and comprehensive scheme, still it will be enough to give a tremendous fillip to the object in view.

Comparatively few free primary schools judiciously spread throughout the province will themselves create an insistent demand for more from the hearts of the people themselves. Necessity is the mother of invention, and when the demand amounts to a necessity widely felt by uneducated individuals themselves, it is to be hoped that the goal of universal free primary education will be reached through the operation of the local boards and village committees.

As with education, so with all the other things which Government realize are necessary for proper development and the happiness of the

people. In irrigation, flood relief, medical help and so on, Government must go warily and must have public opinion cent. per cent. behind them all the way. By "public opinion" I mean not Calcutta opinion, nor the opinion of the *pandits* but the opinion of him who tills the land.

Mr. KADER BAKSH: Mr. President, Sir, in taking part in the general discussion of the budget I do confess—and confess unreservedly—that the next year's budget is not the child of the old stereotyped budget under the bureaucratic Government. It breathes, if read carefully and with an open unbaissed mind, of a responsible citizen, it breathes a spirit and willingness to do something real—or at best to lay the foundation for beneficent activities for the real advancement of the average man—I mean the mass—in all his activities. The Hon'ble Finance Minister has laid the foundation, and it will be our responsibility now to see that the superstructure be accomplished with forethought, caution, well-balanced judgment, as soon as practicable, keeping an eye always on the limitations which we cannot shake off easily, however we may desire to do so.

It will not do for us to forget that the Hon'ble Finance Minister has got his limitations—he has his difficulties—even with these difficulties no department, no sphere of beneficent activity, no institution, calculated to uplift the masses has failed to receive his careful attention. And for this I convey my congratulations to him. But in doing so, I cannot help mentioning some hard facts, which are uppermost in my mind. They will not be in the nature of destructive or obstructive criticism, but in the nature of grievances which I feel keenly, and I shall appeal to him earnestly to consider them with a sympathetic mind.

The Budget represents an income of Rs. 13 crores and 13 lakhs and an expenditure of Rs. 13 crores and 24 lakhs. The question that at once arises in our mind is from whom this income does come. Ninety-five per cent. of the people, who are responsible directly or indirectly for the bulk of our revenue, are Muslims and members of the scheduled castes. But what portion of this money provided for in the budget is spent for these two communities who together form the real strength of the country and produce its real wealth? Out of this sum of Rs. 13¼ crores about Rs. 10 crores go to the members of communities other than these communities.

I never grudge them of this advantageous position, but what I submit most humbly is that the door which shuts these two great communities out may be a little opened and they may be allowed a fair share in it.

Excepting a small sum of Rs. 50,000 for scholarships and stipends, no other money has been set apart for the advancement of the majority community, either from the social or cultural point of view, worth

the name. Like the provision for the scholarship for medical studies, there should have been provision for scholarship for Muslim boys, so that they might be trained as Engineers, Agricultural and Veterinary Officers, as officers of the Army, Royal Navy, Mercantile Marine vessels and the Air Force. But the Budget as it has been presented, smells of a policy that runs counter to the lofty principles enunciated by the Hon'ble Finance Minister in his statement. It has tried to preserve mainly the vested interests of those classes of people which have received he greatest amount of benefit from the public revenues during the last hundred and seventy-five years of British administration.

Healthy and robust children are the backbone of every nation. All activities for their welfare must be supported by all thinking and thoughtful sections of our people without any distinction of creed or caste. The grant of Rs. 50,000 for the Ramkrishna Shishu Mangal Pratisthan is another glaring instance of sincerity on the part of the Hon'ble Finance Minister for laying solid national foundation. The other organization, the Servants of Humanity Society, has got only Rs. 1,000 for a similar purpose. This institution has been started in Suhrawardy Avenue in the house of Sir Hassan Suhrawardy, and it has been doing most useful work. I shall most humbly draw the attention of the Hon'ble Finance Minister to take into his consideration whether the grant can be raised.

It is not clear what is meant by the words "Purdah College." If it means a college also for girls belonging to other communities besides Muslims, I am afraid this will not find favour with the Muslims of Bengal.

In Calcutta a separate college should be started for them to create Muslim atmosphere and spirit, so that the spirit created here in the central organisation may spread throughout the province.

There are some who are under the impression that creation of special scholarships and stipends will help the cause of Muslim girls' education more than the establishment of a separate college for them. Therefore the Muslims should have the former and not the latter. To these kind and good friends we respectfully say that the Muslim community want both for encouragement which is their due in all directions and in all possible forms. The community which has been deprived of its due share during the last hundred and seventy-five years of British administration, will no longer brook any injustice but must have their pound of flesh for their cultural development. They want schools, colleges, hostels, stipends and scholarship, in fact every facility for full growth of their cultural life.

I conclude with an appeal to our Hindu countrymen to help us so that we, their Muslim fellow countrymen, may also march with them for a full and complete national life. They may believe us when we say that we Muslims and Hindus are the common children of our

common motherland. Bengal is the land of birth, growth and even death—we are together born here and when we die, are even burnt and buried on the same soil. So let us help each other in giving full scope to our distinctive culture by separate institutions as long as necessary and in as many ways and forms as possible.

Mr. SACHINDRA NARAYAN SANYAL: Mr. President, Sir, I did not want to take part in the budget discussion, but the statement made by the Hon'ble Finance Minister in presenting the Budget has tempted me to say a few words.

Sir, I am sure, the hon'ble members will admit that discussion on the Budget has become hackneyed—there is no life in it. The reason is, what the hon'ble members had suggested in previous years had never been adhered to. I am sure that even the present Finance Minister had the same experience prior to his elevation to the ministerial *gaddi*. Therefore, before I congratulate the Hon'ble Finance Minister for his fine statement that he has made in order to present the Budget for 1938-39, I want to criticise it by stating a few broad facts. Moreover, I do so because he has mentioned in his written statement that criticism is by no means an antithesis to co-operation.

Coming to the detailed expenditure, I find that the provision for secret service has been considerably increased, although a large number of politicals have been released. The tour expenses have gone up considerably even though the Minister has advocated all-round retrenchment. The creation of several highly paid special posts, such as, the Director of Rural Indebtedness, Unemployment Officer, Assistant Director of Physical Instruction, Propaganda Officers, etc., and the provision for deputation allowances of officers, etc., to be sent to Denmark and other foreign countries, go to show that the present Cabinet is in favour of continuance of the present-day costly system of administration. I feel particularly that there is no need for a Special Rural Indebtedness Officer when the Co-operative Department has been recently strengthened. Instead, endeavours should be forthwith made to amend the Co-operative Societies Act with a view to saving the co-operative movement from stagnation. Similarly, I have grave misgivings about the working of the Debt Conciliation Boards, constituted as they are at present. There should be a stock-taking before an extension programme is launched.

I should like to point out that the provision under the head "Education" is inadequate and disappointing. A large sum has been set apart for youth welfare work, but we expected an announcement on what lines the welfare work will be continued.

Sir, before I conclude, I must thank the Hon'ble Finance Minister that he has made some provision for the Jadavpur Tuberculosis Hospital, the Bangiya Sahitya Parishad and other useful institutions, and I hope

that in future he would provide large sums for ameliorating the condition of the masses and for the nation-building departments.

Mr. NUR AHAMED: Sir, I thank you for giving me an opportunity for speaking on the Budget. I congratulate the Hon'ble Finance Minister for his fine presentation of the Budget. I have carefully followed the discussion and the criticisms made on the Budget in this House and in the daily press which hardly even say a good word for the present Ministry. I find that critics have found very little material for attacking the present Budget. One fact is very apparent that there is a great departure from the past in framing this Budget. There is real provision for the nation-building departments which will do a great deal of good to the poor teeming millions of Bengal.

I would only make one remark and that is that I am surprised to find such a huge amount of Rs. 14 lakhs and odd provided for the emoluments of the members of both the Houses. It is said that we have got democracy—I say, it is democracy with vengeance. We have come to this House to serve our poor countrymen, but there is an increase in the cost of administration all round. The grants to the nation-building departments could have been increased in stead of allotting this huge amount for the emoluments of the members of these Houses. I only appeal to the House to consider this aspect of the Budget.

A member: Set example yourself.

Mr. NUR AHAMED: Yes, I am ready to set the example provided, you agree with me.

With regard to the police budget, I may say that as compared with the expenditure of Madras with her area double of the area of Bengal, the latter spends much larger sum on police. Whereas Madras spends Rs. 1,64,00,000, Bengal spends under this Head Rs. 2,25,00,000. I must say that the expenditure is out of all proportions as compared with Madras and other provinces of India.

Then, again, with regard to primary education, it will be observed that out of a total increase of Rs. 27,00,000, since 1934-35 under head "General Education" only Rs. 6 lakhs have been allotted for primary education. So compared with other provinces, it will be found that Bengal spends a considerably less sum on primary education——

(Here the member reached his time-limit and resumed his seat.)

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Sir, I will condense my criticism of the Budget in two or three sentences, first on the unemployment of the middle-class people and secondly on the programme for the benefit of the masses. I think the most striking feature

of the Budget is the attention paid to the Industries Department for its reorganisation and to the problem of middle-class unemployment. In every province, notably in the United Provinces and Bombay, large funds have been allotted for thorough investigation of the middle-class unemployment problems and schemes have been prepared with the result that through Government intervention, industrial establishments in Bombay have agreed to take a large number of secondary school boys as apprentices and to pay Rs. 15 a month as wages. To combine practical and theoritical training the boys are bound by agreements to attend technical classes in the evening. I have been advocating similar schemes for adoption in jute mill industry which employs more than a quarter of million workers and which is by far the biggest industry in northern India. Jute labour is cheap because it is unskilled but *per capita* production of jute fabrics is low compared with that in foreign countries. I am, therefore, very pleased to note that now Government proposes to establish a jute weaving institute at Serampore and instal a plant at a cost of Rs. 40,000. I am glad to see that a sum of Rs. 20,000 has been allotted for labour welfare work. The amount is very small and we hope a good start should be made. I would like to see the Hon'ble Labour Minister spend a portion of this money in investigating the cost of living of the industrial workers. In fact in all civilised and industrialised countries and even in Bombay, cost of living indexes are regularly prepared to enable adjustment of wages being made. The labour leaders who fomented the last jute mill strike and caused a loss of workers' wages to the tune of 36 lakhs of rupees, demanded a minimum wages of Rs. 30 a month. In the absence of an official report on the cost of living and the standard of living we cannot induce employers to revise wages level. The employers in case of a labour dispute often emphasise that they pay adequate wages to workers to meet their cost of living according to its standard. The question of labour welfare is indeed very important. I would suggest that the Hon'ble Labour Minister set up welfare committees in industrial areas and these committees should recommend what grants should be made and for what purposes or schemes. Schemes of welfare are multifarious such as schools, co-operative societies, stores, athletic clubs, institutes, and even libraries, playgrounds, wrestling clubs and panchayats. The cotton mills in Madras and Bombay have done a lot in this matter and some of the jute mills are not lagging behind specially in providing creches and child welfare medical facilities and in paying teachers for workers' children's schools. But the Government should not only back them but induce them through welfare committees to expand their schemes. As a matter of fact, the question of workers' indebtedness to Kabuli money-lenders is very very serious and it is high time that a special officer of the Co-operative Credit Department is deputed to create loan societies in every large scale factory and induce employers to advance

money to these societies as they do for the benefit of their staff in the Calcutta offices. It is high time that the Hon'ble Labour Minister constituted industrial councils as recommended by the Royal Labour Commission. The council should be composed of Government members, employers' representatives and labour representatives. The examination of labour legislation should be a function of this council, but the main purpose of this provincial council is to foster a spirit of co-operation between workers and employers. The council may also play a useful part in the co-ordination and development of research work. The burden of my suggestion is that the money allotted for labour department should be utilised fully for constituting welfare committees, for a cost of living enquiry and for constituting a provincial industrial council. Now that some funds are available, the Hon'ble Labour Minister should go ahead and devise schemes and machineries for the benefit of industrial workers.

Khan Bahadur M. SHAMSUZZOHA: Mr. President, Sir, in criticising the Budget I do not want to go into details. I want to confine myself to certain features of it and these are two in number. I would speak only about Muhammadan Education and the introduction of free compulsory education in Bengal for which practically no provision has been made.

Perhaps, Sir, you are aware that the history of the Muslim Education in Bengal is a very painful story. The Prime Minister, the Hon'ble Mr. Fazlul Huq, when he was a member of the old Council had a Committee appointed on his initiative known as the Muslim Education Advisory Committee. This Committee reported about the condition and progress of the Muslim Education in Bengal and the report was published in 1934. This report shows lamentable state of affairs with regard to Moslem Education in Bengal since the battle of Plassy down to the present time. I would only request the Hon'ble Finance Minister to kindly bestow his attention while framing the budget next time on this matter and try to meet the wishes and desires of the Muslims. I have only to show to what extent Muslims are still lagging behind others so far as education is concerned. I may refer to section 38, pages 26 and 27 of that report and give some instances. I would draw the attention of the House to the percentage of education of Muhammadans so far as the various institutions are concerned:—

Arts	...	...	13·7
Medicine	...	...	7·9
Engineering	...	...	11·0
Commerce	...	...	2·1
Veterinary	...	...	16·5

This is with regard to College education.

As regards school education—

Special Arts	...	...	3·4
Medical	...	...	11·7
Engineering and Survey	...	...	14·9
Technical industry	...	...	26·9
Commerce	...	...	9·2
Agriculture	...	...	36·9

I would only request the Hon'ble Finance Minister to bestow sufficient attention on this matter and devise ways and means to put the Muslims on the road to progress and advancement. I do not want to raise a communal question. For the good of the country, for the salvation of the people, it is only desirable that the majority community of Bengal, namely, the Muslims, should be so trained that they can take their proper place in the future constitution of the country.

As regards the introduction of compulsory primary education in Bengal, the Hon'ble Finance Minister in the last budget speech stated that perhaps it would not be impossible to start primary education without fresh taxation, but in the statement which he has just made to the House he has categorically said that it is impossible to introduce primary education without the levy of a cess. He has taken shelter under the Primary Education Act of 1930. Coming from the villages as I do and having an intimate connection with and knowledge of the people, I can say that the condition of the people is such that they cannot bear the burden of any fresh taxation. Not only the peasants and agriculturists but the zeminders and the so-called well-to-do people also are in the same miserable plight. The introduction of a voluntary scheme of primary education, the cost of which was hitherto partly borne by the District Board, if now taken in hand by the School Board with limited resources, and the proposed education cess, which people will not ultimately be able to pay, would create a chaos, if immediate steps are not taken for realising money from other sources, namely, from our share of the jute export duty to the tune of about three crores of rupees and diverting it exclusively to primary education in rural areas.

Mr. RANAJIT PAL CHOUDHURY: Sir, I do not wish to add my humble voice to the chorus of applause to the Hon'ble Finance Minister which he has already received. I shall reserve my praise for the administration of his department after the year is out. In my mind the Finance Minister has in his budget provisions yielded too much to the pressure of the majority community. I do not grudge special scholarships and stipends to Muslims and members of the scheduled castes, but what I regret is his step-motherly treatment to

the non-Muslims and non-members of the scheduled castes. Why provisions have been made for the establishment of the Agricultural Institute only at Dacca and for opening a dairy section in the Dacca Farm while no such provision has been made to expand the activities of similar institutions already existing at Krishnagar and Chinsurah, surpasses my imagination.

The Finance Minister has provided Rs. 30,000 for physical education in girls' schools and colleges, well and good. I have nothing to say to that, but it is incomprehensible why he has forgotten to make any additional grant for boys schools and colleges in this respect. Does he think or seriously believe that our boys should remain weak and effeminate, so that the girls may outstrip them in physical education as well?

A most liberal provision for tuberculosis deserves our thanks, but such an extra-liberal provision for that—specially while malaria and kala-azar take a heavier toll than tuberculosis, which is so heavy this year—is evidently calculated to humour the Viceroy and his consort and the provincial Governor and his wife.

It is the paramount duty of every Government, if it means to be popular, to impart primary education at State expense without saddling the people with any taxation. The Education Cess has proved a hardship and a stumbling-block to the spread of primary education and ought therefore to go. Primary education should be made free and universal, even at the sacrifice of higher education and the establishment of a Purdah College!

As regards the amount under "Co-operative," I have just one or two sentences to say and that is that the amount of subventions to the Bengal Provincial Co-operative Bank for the purpose of financing the Central Co-operative Banks should be increased. They should be directed to advance moneys to Central Banks at a rate not more than the prevailing bank rates. It may be noted that the depositors of Co-operative Central Banks are not allowed more than three per cent. interest, and sometimes, strangely enough, no interest at all!

The Hon'ble Finance Minister has attempted to pacify the unemployed, but has not gone deep enough into the root causes of unemployment. He has not opened up adequate avenues for increasing the national wealth. However, Sir, as my time is short, I take my seat with these observations.

Mr. MUKHLESUR RAHMAN: Sir, as the time is so short, I do not like to read out the whole of my speech, but I would like to draw the attention of the Finance Minister to only two or three points. First of all, the Hon'ble Finance Minister has observed in his booklet "in large-scale industry, however, the scope for direct action is very limited and we have mainly to depend on private enterprise." Sir,

I entirely agree with his enunciation, but Government must provide facilities for young men for training to make them qualified and fit for undertaking private enterprises. In textile industry the Muslim young men are like orphans in the street. They are not getting any chance to be trained up in the mills owned by non-Muslims, and it is the duty of the Government to establish a mill or two, if not for profiteering at least for training up our educated young men, specially the helpless young men of the Muslim community and of the scheduled castes. I fully endorse the views expressed the other day by my friend Mr. Humayun Kabir on this point. Government is spending lakhs and lakhs of rupees for the training of detenus and for financing them; cannot the Muslim community and the scheduled castes reasonably claim eight or ten lakhs of rupees from the public exchequer? This is one of my points, Sir.

Another point, Sir, is this. It is my genuine feeling frankly expressed that in our province expenditure on irrigation is undertaken without ascertaining the requirements of each district. It is a painful fact that most of the districts of Bengal, specially the districts of Jalpaiguri and Dinajpur are totally neglected. In these two unfortunate districts, agriculturists are to depend mainly and solely on the caprices of the rain, with the result that greater parts of the district lie fallow for want of seasonal rainfall. In Assam, specially in the districts of Sibsagar and Noagaon and in parts of Sylhet, irrigation is undertaken by sinking tube-wells with pumps. A tube-well with a pump may cost about three to four thousand of rupees, but the same can bring under cultivation one to two thousand acres of waste and fallow lands. This year in Jalpaiguri the major part of the western side could not be cultivated for want of timely rainfall, and the result is scarcity and starvation everywhere. What a small province like Assam is doing! Our province possessing greater advantages, can spend money on agriculture with greater advantage. I request the Hon'ble Finance Minister, therefore, to provide some funds for sinking tube-wells in the districts of Jalpaiguri and Dinajpur as an experimental measure and to see how it works. These are the points that I want to bring to the notice of the Hon'ble Finance Minister.

Mr. BANKIM CHANDRA DATTA: Mr. President, Sir, I know that this House can at best view the enormous body of the Budget from a respectable distance. We cannot even attempt a post-mortem examination, because we have not got the surgeon's knife and even if we are given one, I am afraid we cannot apply it. The Hon'ble Finance Minister was pleased to suggest at the time when he presented his budget that he would welcome "constructive" criticisms, and it is really this suggestion that has prompted me to make only a very few observations, dealing with the broad issues involved in the Budget. I agree with him that the problem of national reconstruction is very vast and

complex. In fact it is as vast as the continent we live in, and as varied and complex as the variety of people inhabiting this great country, professing different faiths, observing different customs, following different occupations and owning different interests. Sir, he has said that we prosper or fall together—I am quoting his own words—"in a world of increasing inter-dependance" and that we have not "the will to prosper." Sir, we have the will, but unfortunately it is the will not of a nation but of a multitude of slaves. That is why although we have the will, we have not the way. What is really wanted is a sympathetic appreciation of this intolerable position and a "bold and spirited" treatment by the popular Government. I would request him, therefore, to approach the three major problems, namely, education, sanitation and unemployment from the people's point of view. For the purpose, therefore, of making a survey of the whole situation I would request him to appoint boards of trustees or experts, who would discuss, examine and formulate the different schemes and projects touching the various problems that might be necessary to the realisation of our goal. I would like him also to man these boards with representative men who possess the requisite knowledge as also the necessary urge in them to work for the people free and in a missionary spirit. These gentlemen may be recruited either from members of both Houses or from leaders of public opinion. So far as the finances are concerned, my humble view is that they should not touch the finance at all but that they should only control the policy, the manner and method of distribution of funds—because their policy will be the policy of the people and will have their confidence. I shall conclude by one or two observations in connection with the town where I live—I mean, the town of Howrah—I would request the Hon'ble Education Minister please not to forget the two educational institutions in Howrah, viz., the Howrah Girls' High English School, the only institution of its kind in the district and the Narsingh Dutt College. I would invite the immediate attention of the Hon'ble Minister in charge of Local Self-Government about the introduction of a Bill for improvement of Howrah which is long overdue. I close by appealing to the Hon'ble Finance Minister for providing some money for a home for the cripples which has been lately established by the local people with the help of the municipality and which is known as the Ramkrishna Atur Ashram.

Mr. NAZIRUDDIN AHMAD: Mr. President, Sir, I congratulate the Hon'ble Finance Minister on the excellent budget which he has produced. Although criticisms have been made on it, I cannot help feeling that some of them practically destroy each other. Still, apart from many criticisms which cancel each other, there would be enough left for the Hon'ble Finance Minister to take note of. Regarding the various suggestions made in the House I desire to notice one

or two. The Maharaja of Santosh has suggested that the zemindary system of the province should be placed on a co-operative basis. I believe it is already well known that the co-operative movement is a huge failure and to attempt to put the entire zemindary system on a co-operative basis would be courting wholesale disaster. I believe, the zemindars are already too much troubled over the threatened unsettlement of the Permanent Settlement, and I devoutly hope that more troubles would not be heaped on to their shoulders by placing the zemindaris on a co-operative basis.

With regard to the abolition of the Tobacco Tax, one of my hon'ble friends has congratulated the Hon'ble Finance Minister for the same. But I cannot honestly do so because I happen to be a non-smoker myself. With regard to the abolition of this tax, I must say that the Hon'ble Minister has shown considerable partiality towards the smoking fraternity of Bengal—perhaps his own class—

The Hon'ble Mr. NALINI RANJAN SARKER: No, no. I am a non-smoker too and I am always with you.

Mr. NAZIRUDDIN AHMAD: I stand corrected. I am glad that I am in good company.

Sir, the time at my disposal is extremely short, and I shall make only one or two suggestions to the Hon'ble Finance Minister. One of my suggestions is about a very trifling matter, and it would be very easy to give effect to it. I desire that a latrine be provided in the District Judge's Court building at Burdwan. This court building is one of the most magnificent in the province. It is an architectural beauty and stands in splendid surroundings. It was erected at a huge cost, possibly Rs. 3 lakhs, in 1922, and the then Governor, Lord Lytton personally went there to open it. But I am sorry to say that up to this time no latrine has been provided therein. The difficulty felt by lawyers and litigants can be better imagined than described. Lawyers though we are, we also feel the call of nature like other human beings. How the members of the legal profession relieve themselves in this respect cannot be properly described in parliamentary language. Well—all that I can say is that old and venerable trees standing on the ground since the days of the Permanent Settlement, are being subjected to the grossest indignities by eminent lawyers and tenacious litigants with a degree of unconcern which have amazed passers-by. One of the most eminent European Counsel of Calcutta, an ex-Judge of the High Court, once went to Burdwan to conduct a case, and as a human being felt the urge of nature. He searched for a suitable place for his relief but could not find any. His call being a call of nature, took precedence over all other calls, and he had to leave the court in a poor hackney-carriage and drove a mile to the railway station, the nearest place

where he could relieve himself. The famished horses which dragged the carriage ran a fierce race, and it is reported that he reached there just before it was too late. This is not an isolated instance and we are suffering for these sixteen years. I believe that the demand for a latrine in the building has been insistent, and I also believe it can very easily be satisfied by providing only a few hundred rupees. The other thing to which I would draw the attention of the Hon'ble Finance Minister is a more serious matter. It is the Damodar floods. It is only when the left bank of the river gives way that there is an uproar in the press and many visitors go there to see the fun themselves, and the outside public hears much about it. But with regard to the right bank of the Damodar the distress of a vast tract of land is an annual affair. The suffering is acute and recurring. It is a vast problem and it deserves to claim the urgent attention of the Government and a legitimate share of its enormous resources. I hope the Government would soon intervene and save the much harassed inhabitants of this wide tract of land from annual starvation and ruin.

Rai BROJENDRA MOHAN MAITRA Bahadur: Mr. President, Sir, it is usual to congratulate the Finance Minister when he produces a balanced budget.

The Hon'ble Finance Minister has this year given us a budget which has made available over a crore of rupees for expenditure primarily on nation-building departments and for this he deserves our heartiest congratulations.

Noticeable among the contributions is the one of 5 lakhs of rupees for primary education. I need not dilate upon the virtues of primary education. Its need is admitted on all hands. It is further admitted that it should be both free and compulsory without taxation.

In the growth of democracy what is most important is that our boys and girls should be taught from their infancy the virtues of unity and patriotism side by side with the elementary knowledge of useful handicrafts and sanitation. Sir, I desire to congratulate the Hon'ble Minister for his promise of opening up at least ten thousand jobs in different walks of life for our unemployed. Unemployment has affected every home in Bengal and though these jobs will touch only a fringe of the problem, still something is better than nothing. In this connection I may be permitted to refer to the cases of the released detenus, internees and political prisoners. They will number not less than three thousand. Amongst them will be found young men who, I am sure, will satisfy all tests for the jobs, and I hope and trust that in making appointments their claims will receive the first consideration at the hands of the authorities. The least that Government can do in this connection is to issue instruction to all authorities to take them in while making those appointments. If this is done, a great problem

as to how to make provision for these released detenus and prisoners may be solved.

The Government have not implemented their promise made on the 16th August last regarding the allowance of the detenus after they have been released. There are some released detenus who have not got their allowances and thus they are experiencing a great deal of hardship. Those who are fortunate enough to get their allowances, are not receiving the same amount as they used to receive when under detention.

Sir, I desire to draw the attention of the Hon'ble Finance Minister and through him the attention of the Minister in charge of Public Works that a scheme for a north Bengal highway was hatched in 1929 but such is the dilatoriness and inefficiency of the executive staff for carrying out public works in the Rajshahi Division that the works far from being completed, has not even been started.

Sir, the Government of India contributed several lakhs of rupees from the Road Fund for the road development of Bengal. It is disgraceful that a sum of close upon thirty lakhs of rupees could not be spent for want of proper officers with executive capacities to push on and carry out schemes of road-making in Bengal.

Sir, I will touch on one other matter, namely, the chronic indebtedness of our peasantry. It was said by some of our members that a moratorium should be declared. I must admit it would be the cheapest way of winning applause. But the suggested method seems to me to be crude, arbitrary and confiscatory. To help our peasants in need, I should suggest that the Government should issue debentures at 3½ per cent. and help the peasants to meet the compounded claims of the creditors and to recover the money back from them in course of thirty years at 5 per cent. The difference of 1½ per cent. in the receipts from the peasants will go to meet the expenses of the Government. Here is no confiscation nor suspension of anybody's money. This should satisfy both the creditors as well as the debtors.

Adjournment.

The Council then adjourned till 2-15 p.m. on Thursday, the 24th February, 1938.

Members absent:

The following members were absent from the meeting held on the 23rd February, 1938:—

(1) Esmail, Khwaja Muhammad.
(2) Goswami, Mr. Kanai Lal.
(3) Jan, Khan Bahadur Saikh Muhammad.
(4) Lamb, Mr. T.
(5) Mookerjee, Mr. Naresh Nath.
(6) Mookerji, Dr. Radha Kumud.
(7) Mukherji, Rai Bahadur Satis Chandra.
(8) Sinha, Rai Bahadur Surendra Narayan.
(9) Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
(10) Stokes, Mr. H. G.

B. G. Press—1938-39—1419A—900.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Thursday, the 24th February, 1938, at 2-15 p.m., being the fifteenth day of the First Session, pursuant to section 62(2)(*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Fees for Copying in Registration Office.

181. Mr. NARESH NATH MOOKERJEE: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) why the resolution of Maulvi Tamizuddin Khan, carried in Council on the 4th August, 1928, has not yet been given effect to;

(*ii*) whether the said resolution was carried by sixty-three votes against seventeen?

(*b*) Have the Government intention to give effect to the said resolution in the near future?

(*c*) Is it not a fact that since the date of this resolution the fees for copying been increased?

(*d*) If so, by what amount?

(*e*) What was the amount of copying fees in the Calcutta Registry and Sub-Registry office in 1936 and in 1926?

(*f*) Is it a fact that in the Calcutta Registration office at least thirteen extra copyists are matriculates and possess higher qualifications?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Minister in charge of the Education Department): (*a*) to (*e*) The hon'ble member is referred to the answers given to the question No. 22 by Mr. K. C. Roy Chowdhury in the current session.

(*f*) In the Calcutta Registration office nine extra copyists are matriculates, two are under-graduates and one is a graduate.

Pay of Chaukidars and Dafadars.

182. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Is the Hon'ble Minister in charge of the Public Health and Local Self-Government Department aware that the Circle Officer of Bajitpur has directed the Union Boards under him to frame next year's budget on the basis of a higher scale of pay for chaukidars and dafadars?

(*b*) Is the Hon'ble Minister aware that Rs. 6 as at present paid to a chaukidar and Rs. 8 to a dafadar, are considered by the local people quite enough for the works they are required to perform?

(*c*) Is the Hon'ble Minister aware that the proposed increment in pay will necessitate an appreciable enhancement of union rates which most of the rate-payers are unable to bear?

(*d*) Will the Hon'ble Minister consider the desirability of issuing a circular giving the Board full liberty to fix the pay of its employees or at any rate disapproving the proposal of said increment of pay of chaukidars and dafadars?

MINISTER in charge of the PUBLIC HEALTH and LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Syed Nausher Ali): (*a*), (*b*) and (*c*) There were two grades of pay for dafadars and chaukidars in the district of Mymensingh, viz., for dafadars Rs. 10 and Rs. 8 and for chaukidars Rs. 8 and Rs. 6.

It appears that some time ago the higher rates of pay for dafadars and chaukidars were reduced from Rs. 10 and Rs. 8 to Rs. 8 and Rs. 6, respectively. Thus the pay of dafadars and chaukidars was fixed at a uniform level of Rs. 8 and Rs. 6 throughout the district including the Bajitpur circle. The present District Magistrate has by a recent order introduced the following scales of pay for them, viz.:—

Dafadars Rs. 8, Rs. 9 and Rs. 10.

The increment from Rs. 8 to Rs. 9 is to be earned after three years' satisfactory service and from Rs. 9 to Rs. 10 after further four years' satisfactory service.

Chaukidars Rs. 6, Rs. 7 and Rs. 8.

Increments are to be earned in the same way as in the case of dafadars.

From the 1st Baisakh 1345 B. S. the dafadars and chaukidars who have rendered three years' satisfactory service will be paid Rs. 9 and Rs. 7, respectively, in those unions where prior to reduction the rate of pay was Rs. 10 for dafadars and Rs. 8 for chaukidars. In other

unions the increase will take place after a further period of two years.

(*d*) No, as it will offend against the provision of clause (*l*) of section 21 of the Village Self-Government Act.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, may I draw the attention of the Hon'ble Minister to the fact that no answer has been given to my question (*b*)?

The Hon'ble Mr. SYED NAUSHER ALI: Sir, Government have got no information about the opinion of the local people on this point.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Should not Government have enquired about local opinion when I gave notice of this question?

The Hon'ble Mr. SYED NAUSHER ALI: Under the present law, the District Magistrate fixes the remuneration of dafadars and chaukidars after consulting the opinions of Union Boards, and that, I understand, has been done.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I say, Sir, that it has not been done. Will the Hon'ble——

The Hon'ble Khwaja Sir NAZIMUDDIN: Is it permissible for an hon'ble member to make such remarks?

Mr. PRESIDENT: That is not allowed.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: All right, Sir. I will then frame my question in this way: Will the Hon'ble Minister kindly state what was the Collector's justification for ordering the enhancement of pay?

The Hon'ble Mr. SYED NAUSHER ALI: I think, Sir, in the answer itself some justification has been supplied. In some cases, the pay was higher and was subsequently reduced. It may be that the Magistrate, who has now introduced this graded pay, has been of opinion that a graded pay is likely to ensure greater efficiency. That is of course my opinion only.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Hon'ble Minister aware that the average rate of wage of an agricultural labourer is Rs. 4 to Rs. 6 per month only in that area?

The Hon'ble Mr. SYED NAUSHER ALI: I have got no such information, Sir.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state if dafadars and chaukidars are men superior in rank to the agricultural labourers?

The Hon'ble Mr. SYED NAUSHER ALI: They are generally recruited from the same class.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Are they whole-time servants of Government, or are they allowed to do their private work also?

The Hon'ble Mr. SYED NAUSHER ALI: I do not think I shall be in order in answering this question from my personal knowledge, but I have got nothing on record to answer a question of this nature.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister kindly enquire as to what the local Union Boards think about the rates and whether they were consulted in this matter and whether they are agreeable to this rate?

The Hon'ble Mr. SYED NAUSHER ALI: Government will be prepared to ask the District Magistrate whether he fixed the pay after consulting the Union Boards.

Rai KESHAB CHANDRA BANERJEE Bahadur: Will the Hon'ble Minister be pleased to state whether he has any information to the effect that dafadars and chaukidars are not regularly paid every month?

The Hon'ble Mr. SYED NAUSHER ALI: Well, Sir, since I came into office, I have never got any complaint to that effect.

OFFICIAL BILL.

The Bengal Rhinoceros Preservation (Amendment) Bill, 1937.

The Hon'ble Mr. PRASANNA DEB RAIKUT: Sir, under section 81 of the Bengal Legislative Council Rules and Standing Orders, I beg to lay the Bengal Rhinoceros Preservation (Amendment) Bill, 1937, on the table and request that a date may be fixed for it to be taken into consideration and passed by this Council.

Non-official Motion under section 118 of the Rules and Standing Orders relating to Federation.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, I beg to move that this Council do present an address to the Governor for submission to His Majesty with the request that His Majesty may be pleased to communicate to Parliament the following resolution—

that Part II of the Government of India Act, 1935, be not brought into operation as being highly detrimental to the best interest of the people of India.

Sir, Part II of the Government of India Act, 1935, deals with the question of the Federation of India. An address is to be presented by both the Houses of Parliament on fulfilment of certain conditions and His Majesty will declare that a Federation under the Crown by the name of Federation of India will come into being comprising the Governors' Provinces and the Provinces under Chief Commissioners, and secondly the Indian States. Sir, the Indian States are a necessary factor in this Federation. By the Instrument of Accession, and not annexation, the rulers of Indian States are to accede to this Federation. A determined effort is now being made to bring this Federation into existence. Sir, the law provides a third of the seats to these Indian States in the Federal Legislature. This means a dominating voice in the control and management of our affairs whereas Indian Legislature will have no such control in the direction of internal management of the Indian States, which are autocratically governed and have no representative institutions. Sir, the rulers will nominate and their nominees will sit side by side with the representatives of the autonomous provinces in our Federal Legislature. Although the seats have been allotted on the basis of population, the people of the Indian States will have no voice whatsoever in the nomination or in the selection or in the election of these members. Can injustice go further? Sir, by Statute, the protection of the rights and dignities of the rulers has been made a special responsibility of the Governor-General; their nominees, to all intents and purposes, will be the nominees, so to say, of the paramount power, and in any clash between British and Indian interests their votes will automatically swing on to the side of British Capitalism which is but another name of British Imperialism. Sir, to match such a scheme, indirect election to the Federal Legislature has been provided for the Indian provinces; and as if this is not enough, separate electorate has also been provided for, to keep the communities apart, I should think. This is giving, Sir, a death blow to nationalism and even a death blow to democracy. Certain weightages have also been given to different communities with a view to making the rule by the majority a fiasco. Sir, what is given is that real power

has been concentrated by this Act on a single individual, and extra-ordinary powers have been vested in the Governor-General who has been commanded to act in his own discretion in all material particulars and otherwise to act in his own individual capacity. Sir, whose interests are greater, I ask in all seriousness—the interests of the people of India or of the Governor-General in the matter of prevention of any grave menace to peace and tranquillity of India or any part thereof? Surely the interests of the people and I hope there will be no two opinions on the point; and yet the representatives of the people have not been trusted. The incidents in Bihar and the United Provinces illustrate my point. The higher authorities thought fit to interfere and the Ministers were not allowed to go on with the primary duty of maintaining law and order and even to act up according to their own discretion. Even the higher authorities did not think fit to wait and see what effect would be produced in those provinces in the event of certain releases being effected. But they interfered. This reveals, if anything reveals at all, the real character of the constitution. Sir, who would suffer most, if the credit and stability of the Federal Government are not safeguarded? I should say, the Indians themselves. But it has yet been made the special responsibility of the Governor-General. Sir, how can the Federal Government conclude trade agreement with foreign countries unless external affairs are also handed over for control to the Federal Legislature? But external affairs, Sir, are made a subject of special responsibility of the Governor-General. Even our Federal Legislature will have no control over the Reserve Bank nor over the Federal Railway Authority. At present the Indian Legislative Assembly can direct and control the policy of the Railway Board but as soon as the Federal Legislature comes into being, they will have no such control and the result of having no control over the Reserve Bank means that the Reserve Bank will have a free hand in the matter of the currency and exchange which has a vital bearing on the economic development of the country. Sir, in the field of finance the reserved side will absorb 80 per cent. of Federal expenditure and that will be controlled by the Governor-General. In a total Federal expenditure of about Rs. 78 crores, close upon Rs. 44¾ crores will go for the maintenance and upkeep of the Indian Army, and in that the people's representatives will have no say and no vote. What remains is only 20 per cent. of the Federal revenues and in this also the Ministers will have very limited powers. In fact, no economic independence has been conceded, not to speak of political independence. The Governor-General has also been empowered to provide against commercial discrimination which means that even when the best interests of India will call for protection, the Governor-General will be able to intervene and say, no. Sir, even the pay and prospects of the officers of the higher permanent services

have been made a special care and responsibility of the Governor-General. Although they are the servants of the people, the people's representatives, the Ministers, will have no control over them—an arrangement which is unheard of in any part of the world. Sir, responsible Government will be a misnomer, a farce and a fraud unless the children of the soil can defend their own hearths and homes and are given responsibility, and unless they are given an opportunity to shoulder the responsibility for defending their motherland against foreign invasion. But Part II of the Government of India Act, 1935, has made the defence of India a special responsibility of the Governor-General. Sir, I would not dilate further on this subject; I would not go on citing instances after instances; suffice it to say that even if the Indians go on working this Act, they will never be able to attain sufficient strength to acquire independence. Sir, what the Indians want is a constituent assembly based on adult suffrage to frame their own constitution. Will the British Government concede it? The goal of the Congress as well as of the Moslem League is the attainment of independence for India. Both these powerful organisations have passed resolutions condemning the present form of the Federation envisaged in the Government of India Act, 1935. I believe, if my memory does not serve me wrong, the Hon'ble Mr. A. K. Fazlul Huq and the Hon'ble Khwaja Sir Nazimuddin attended the Muslim League session at Lucknow, in which a resolution against the Federation was passed, and I may say that these two hon'ble gentlemen were a party to it.

Sir, I have before me the prominent representatives of the Moslem League as well as the Proja Party in this Council. The step that they will take to-day will be watched; the speeches that they will make to-day will be heard and read throughout the length and breadth of India, and the vote that they will give to-day will show whether they stand for independence of India and will be a powerful factor for the advancement of the common cause of our motherland. I do believe they will stand up as I have stood up against this Federation and in that belief I appeal to them and in appealing to them I do hope and trust that I do not appeal in vain.

Mr. PRESIDENT: Motion moved: this Council do present an address to the Governor for submission to His Majesty with the request that His Majesty may be pleased to communicate to Parliament the following resolution:—

that Part II of the Government of India Act, 1935, be not brought into operation as being highly detrimental to the best interests of the people of India.

Mr. NUR AHAMED: Mr. President, Sir, I beg to move by way of amendment that after the words "the following resolution" the words "this Council recommends to the Government of Bengal that the opinion of this House be communicated to His Majesty's Government of Britain" be inserted, and at the end of the motion so amended the following be added, namely:—

> "and that this Council hopes that the Government of Britain will respect that wishes of the people of India and immediately devise means, even for transitional period, to set up a Central Government free from the objectionable featurs of the federal scheme as embodied in the Government of India Act, 1935, to be evolved in consultation with all the responsible leaders representing all communities of India."

In moving this amendment, Sir, I submit that there is no denying the fact that Federation as embodied in the Government of India Act, 1935, has been condemned from all platforms, in the newspapers, by all the national and also communal organisations as unacceptable to India, as derogatory to the Indians. Sir, my purpose in moving the resolution is this: my learned friend Mr. Das has moved that an address be presented to the Governor to the effect that Part II of the Government of India Act be not brought into operation. I am of humble opinion that this is a negative side of the question, and there must be clear indication of what the Indians want. So, I have brought the motion with a view to expressing the wishes of the House. I have tried to take every precaution to make my amendment in such a way that it would be acceptable to all sections of the House. Now what is Federation as embodied in the Government of India Act, 1935? We find that it is a curious amalgam of democratic India with autocratic Indian States. In this constitution as foreshadowed in the Act, there is a question of union between autonomous India, that is British India, with those States which are most autocratically governed.

There is a further objection in the constitution, that is that the princes are given weightage. Though they rule less than one-fourth of the population of India, their representatives have been given more than one-third of the seats in the Upper House and more than one-third of the seats in the House of Assembly. In the matter of the principle of election also there is a vital difference. The princes will nominate their delegates. In the case of Upper House there is the direct election in British India, and in the case of princes there is practically the nomination system. This is most objectionable. What is the necessity of such a sort of Federation where the princes' nominees will come to take their seats as autocratic bodies and will

try their best to put obstacles in the way of national development of India?

There are also other objections. It appears from the various sections of the Government of India Act, 1935, that the Governor-General has been made all powerful and all glorified satrap. He can easily override the decision of the Ministers. He can have the money which he needs. He can issue ordinances when the Federal Assembly is not in session. He can enact laws when he thinks it necessary by exercise of his power in discretion or exercise of individual judgment. And there is another most revolting provision, that is, the Federal Assembly which may be called the Parliament of India, by irony of fate has no power to determine the policy of foreign relations. Sir, we understand by Federation the combination of sovereign states who combine together for the purpose of common good in order to present a unified front to foreign nations. In point of vital principle of Federation, the Parliament of India will have no power to regulate foreign relations except in case of Dominions.

Then it is reactionary also so far as it is concerned with Military Department. This Federation will have no control over the military expenditure which covers the main portion of the India's revenue. They will have practically no effective voice in the determination of the expenditure of India's military budget.

Then there are other objections also. The Viceroy will be all in all in relation to excluded areas, tribal areas and many other things. So from all points of view there is no doubt that this sort of Federation cannot be acceptable to any Indian, whatever principle he may follow, and I think no self-respecting Indian who loves his own country and who wants to see his country to be an equal partner in the Commonwealth of Nations can accept this sort of Federation.

There are other things in connexion with the Federation and there are many other evil features though I do not want to dilate on those points. In addition to the many, we find that there is another most objectionable feature as regards the Federation. India's Parliament will have no power to make alterations in important matters, i.e., matters connected with Railway, Defence, and the sphere of policy and expenditure on it, but in England Parliament has all those powers which the Indian Parliament has not. Such being the case, who can agree to and accept the Federation? So my humble suggestion now is that a Central Government should be set up free from the dismal features of the Federal scheme, i.e., Part II of the Government of India Act, 1935. We do not want the present Central Government but we want the Supreme Government to be replaced by a good Central Government and by a Federation which will be free from the evils of

the contemplated Federation. With these few words I appeal to the House to accept my amendment.

Mr. PRESIDENT: Amendment moved to the original motion that after the words "the following resolution" the words "this Council recommends to the Government of Bengal that the opinion of this House be communicated to His Majesty's Government of Britain" be inserted, and at the end of the motion so amended, the following be added, namely:—

> "and that this Council hopes that the Government of Britain will respect that wishes of the people of India and immediately devise means, even for transitional period, to set up a Central Government free from the objectionable features of the federal scheme as embodied in the Government of India Act, 1935, to be evolved in consultation with all the responsible leaders representing all communities of India."

Mr. NARENDRA CHANDRA DATTA: Mr. President, Sir, I rise to give support to the resolution of my friend Mr. Lalit Chandra Das. I am not going into the details, but we find that the Government is more anxious than ourselves for Federation. I want to know why? We have seen that about a year ago provincial autonomy was established in the different provinces of India. We have also seen how this provincial autonomy is being handled by the Government and how they are allowed to grow and develop. We have seen very recently that provincial autonomy is more or less a myth. Objection was raised against provincial autonomy but ultimately the Congress acquiesced and accepted office on the clear understanding that there would be no interference in carrying out their programmes but it has been interfered with. So we have become very anxious and we are not prepared to take the statement of the Government at its face value. I ask why the Government is so anxious to have Federation before the experiment of provincial autonomy has been tried completely. Is it natural? I think the Government should have waited but we find from all sides that the Government of India is very very anxious to implement Part II of the Government of India Act, 1935, as early as possible. We are also supported by the attitude of the native princes. The native princes have met once, twice, thrice and four times but they are never unanimous. Some of them may be willing to join but most of them are afraid of joining. As regards their view-point, we have nothing to say but from our point of view the native princes should not be allowed to be in the Federation. Of course the statement of Lord Lothian is correct that federation, by itself there is nobody against, but federation as adumbrated in Part II of the Government of India Act is the thing objected to. We would request the Government to wait and see the

development of provincial autonomy, and let the verdict of the people be ascertained. Why Government is thinking for us? India does not like to be on the leadingstrings any more. India wants to think for herself. Let the British Government take note that the people of India will not like to be dictated to or advised by them any more. They will think for themselves and decide for themselves. But in this question it is a matter of pleasure that the primary and the major communities, the Mussalmans and the Hindus, are almost unanimous. The Muslim League and the Congress, they are all for throwing it out. That also clearly shows that this is a matter which should not be allowed to be started. It has been clearly considered and examined. It is a very funny thing that the British Indian provinces have got democratic form of Government and the native States have got autocratic form of Government. Most of them have not and some of them are starting to have some kind of democratic form of Government. The other day one of the premiers of the native States disallowed a motion for introducing a democratic form of Government. The reply was that there is a bar, that the native States could not consent to a democratic form of Government without consulting the paramount power. So when all subterfuges are resorted to by the native princes not to allow the people's voice to prevail in the country, why should those princes be allowed to come? Why should the native princes be allowed to have a say in our matter whereas our say in their matter would be almost nil? Though the Federal Legislature will have no control over the princes, they will have some sway over that Legislature. Subject to their Letters or Instruments of Accession, the Federal Legislature will have power to legislate for them. My submission is that this is a matter for which time should be allowed. With these few words I support the resolution of my friend Mr. Das and resume my seat.

Maulana MD. AKRAM KHAN addressed the House in Bengalee. The following is the English translation of his speech:—

Mr. President, Sir, I find no language to express my feelings of joy at being able to speak on this resolution after a long time. A generation ago, there was a time when the Moslem League and the Congress in India stood side by side and carried on the struggle for the country's freedom. But for some reason or other, be it under the influence of an evil star or as a result of somebody's activities, that age is gone. However, those who believe in God hold that in admitting the existence of a Creator, one has to admit His attribute of goodness as well. He brings about good even out of evil. I believe that He has produced this evil of Federation simply to bring these two communities again to the same centre of activity. The proposed Federation bristles from head to foot with defects and drawbacks. A few

minutes are not enough for commenting on these. Even the greatest of experts will take months to find out after a great deal of efforts if there is anything in the Federation worth accepting. Be that as it may, the Moslem League at its last annual session, adopted a resolution condemning Federation in unambiguous terms. Perhaps, it is still fresh in everybody's memory how strongly Mr. Mahammad Ali Jinnah, the undisputed Leader of Moslem India, protested against the first move that was made some time back in the Indian Legislature for indirectly enlisting support in favour of Federation. I do not wish here to enter into any discussion about the defects and drawbacks of Federation which are so well known, have been so strongly condemned in a thousand ways by hundreds of individuals and so widely protested against throughout the country that no further denunciation on my part is called for. If I have been able to follow the English speech fully well, I would say that the speech of my friend who moved the resolution would have been more satisfactory had he not referred to the Communal Award and separate electorate in it. I am afraid this may give rise to some misunderstanding in the minds of some of my friends. In order to allay this suspicion I would like to point out that all the sessions of the Congress from Calcutta to Haripura, definitely declared that all amendments and modifications of the Communal Award depended upon the consent of all parties concerned. If the Moslems or any other party do not agree to any change, it will not be accepted. The change to be effected in the Communal Award will be subject to the approval of the Moslems. Hence, we have no reason to entertain any doubt in regard to separate electorate or any other issue. To-day, both Congress and the Moslem League are taking the vow—I think adopting a resolution means taking a vow. We take a vow to resist it. To-day that opportunity has come. As an humble servant of the country, I approve of this resolution from the very depth of my heart. To my friend Mr. Lalit Chandra Das and to the Congress Party I beg to submit that we shall feel all the more grateful if they will find their way to support the amendment of my friend Mr. Nur Ahamed.

Rai KESHAB CHANDRA BANERJEE Bahadur: Mr. President, Sir, it is very interesting to study the growth of antipathy to the ideology of Federation in the framework of the new Constitution. The idea of Reforms on the lines of the federal system or unitary system was agitating the minds of Indian political thinkers for a long time and there were able and patriotic supporters on both sides. But the question of bringing in the Native States as units in the Federal scheme did not strike any of the responsible leaders of Indian public opinion. The Simon Commission made a significant hint at the possible consummation of such an ideal. Before the Round Table Conference ideas were

crystallising, and in the first Round Table Conference desire was expressed on behalf of the native princes of India to come into the fold of the Indian Federation. There were political thinkers on the British India side who were in favour of the unitary system of Government and as such they were opposed to federation—federation with British Indian Provinces and also with autocratic Native States. The opposition to the federal system of Government, however, melted away and the principle of federation was accepted. The native princes wanted to come in and that decision was endorsed. In the second and the third Round Table Conferences, there was hardly any effective opposition to the ideals of federation. Even Mahatma Gandhi did not oppose the federation plan in the second Round Table Conference.

But in process of time, the Congress opposition to the scheme of federation grew principally under the inspiration of Pandit Jawharlal Nehru. It was an opposition primarily to defeat the operation of the Government of India Act, 1935, and subsidiarily to bring in the Native States as federal units which were supposed to be offering obstacles to the growth of Indian independence. We should carefully note that the opposition organised by the Congress is not an opposition to the federal ideal, nor a device to advocate the unitary system of Government in British India, but that this opposition is engineered more as a strategy for defeating the operation of the Government of India Act, 1935, than anything else. With such a strategic move to wreck the given Constitution, I have no sympathy.

Mr. NARENDRA CHANDRA DATTA: Hear, hear.

Rai KESHAB CHANDRA BANERJEE Bahadur: I can appreciate the sense of dissatisfaction with a dyarchical form of Government in the Federal Centre, and I am willing to extend my warm support to any constitutional agitation for widening the responsibilities given to the Indian Ministers at the Federal Centre. But to support a move for wrecking the constitution in order to rouse popular enthusiasm and to create forces of discontent, has little reasoning, less sense particularly at a time when things are settling down to normal conditions. If the Congress opposition to federation would have run on constructive and academic lines, I would have been glad to be with them, but I find, as all will find, that this opposition does not indicate a genuine opposition to the federal plan but is merely put forward as a move to defeat the purpose of the Act—the very Act which has given my friend Mr. Lalit Chandra Das an opportunity of tabling the resolution in this House. Sir, this game of availing a part of the Act to defeat another part of it does not appeal to me. I stand for federal principles in our scheme of All-India Government.

Mr. NARENDRA CHANDRA DATTA: So does the Congress.

Rai KESHAB CHANDRA BANERJEE Bahadur: I do not, therefore, want to see Part II of the Act defeated, although there is ample room for improvement in the new Constitution with a view to satisfying Indian aspirations. We may oppose the Reforms by all legitimate and peaceful means for getting more powers and responsibilities, but we do not gain anything by wrecking the Constitution. In the arena of constitutional fight there is hardly any room for the policy of wrecking.

It is perhaps within the recollection of the members of this House that the Simon Commission envisaged a Constitution for India which was much better from the democratic point of view than the Constitution which has been vouchsafed to us.

Sir, the Congress opposed and rejected the Report of the Simon Commission which strongly recommended the principle of joint electorate, but it was due to Congress opposition that the present Constitution, which my friends on my right call "diluted" Provincial Autonomy has been foisted on us with the pernicious "Communal Award" forming the basis of the Provincial Constitution.

Sir, in spite of the many defects in the present Constitution, so far as the provinces are concerned, the Congress has come forward to work it in seven out of eleven provinces. While I oppose the original motion of Mr. Das, I regret to have to say that I do not see eye to eye with the mover of the amendment. The amendment suggests that the British Government should "set up a Central Government free from the objectionable features of the federal scheme as embodied in the Government of India Act, 1935, to be evolved in consultation with the responsible leaders representing all communities of India." That would mean the amendment of the Government of India Act, 1935, which the Government are not certainly going to do in the near future. Now that Part I of the Act has been in operatation in the provinces, there is no ground to suppose that the Government will readiy agree to amend Part II of the Act so as to change the system of Government proposed for the Centre. The result will b that the present state of things at the Centre which is far worse than the scheme foreshadowed in the Federal Plan will continue indefinitely. With these words, I oppose both the substantive motion and the amendment.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I expected that so far as the Indian section of the House is concerned, there will be unanimity in regard to the principle enunciated in the resolution moved by Mr. Das. Sir, I will make our position clear,—the position of the Musalmans,—so far as this question is concerned. There are several aspects of the Federal Scheme which have influenced the attitude of

the Musalmans and the Muslim League. The first is the constitution of the Federation: the second is the distribution of power between the Federal Responsible Government and the irresponsible Executive, namely, the Governor-General constituting another form of diarchy: the third is the division of power between the units and the Federal Government. We do not admit that a Federation composed of responsible and irresponsible elements can ultimately be a success. At one stage or another it is bound to flounder. Therefore the whole scheme according to us is impracticable and will lead to disaster. The next question is the division of power; reservation of the greater portion of the power in the hands of the irresponsible Governor-General, means continuing the control of the Governor-General acting in his discretion in respect of more than half of the revenues of the Government of India. Therefore we are opposed to this reservation on that principle; the further question is that too much power has been concentrated in the Centre at the cost of the provinces. Our view is that a Federation shall be formed of independent sovereign States like all other Federations of the world. Examining the list of the powers distributed between the Federation and the provinces, we find this discrimination, namely, the States have been given greater power than have been given to the provinces; the purpose that lies behind this is the protection of the powerful commercial communities in British India. We find that the States are given power to start their own business, to tax commercial units and even to impose taxes upon all sorts of corporation. But so far as the provinces are concerned, this is entirely denied to them. The provincial Governments cannot start their own business or commercial concerns in India: nor can they even touch their real sources of taxation, namely, the commerce of the province. These are all made subjects of the Federal Government. Therefore, Sir, the powers of the provinces have been curtailed and crippled. There have been so much discrimination as between the British Indian provinces and the Native States that we cannot agree to such a discrimination and accept a Federation of this kind. The next point is that we are opposed to the principle enunciated by section 104 of the Act. The principle is that the Federation's power of legislation should be a very limited one. They should be only for the purpose of keeping a number of units together for certain common purposes, namely, defence, communication, foreign relations, etc. Here the power enunciated in the list is as exhaustive in favour of the Federation as they are limited in the case of the provincial units. At the same time the residuary powers under section 104 are vested in the Governor-General. Our view is that the residue of powers shall rest in the provinces and not in the Centre. I further say that we should support the amendment moved by Mr. Nur Ahamed. I was thinking that there would be no opposition to the acceptance of that amendment on

principle. The only difference it contains is that the ultimate adoption of the character of the form that the Federation will take, will be drawn up in consultation with the leaders representing all communities in India, and there should not have been any objection to that. I do not know why Mr. Das objects to accepting the amendment of Mr. Nur Ahamed.

Mr. HUMAYUN KABIR: He did not say that he did not accept it.

Mr. HAMIDUL HUQ CHOWDHURY: At least there has been no acceptance up till now. If the amendment is accepted, it will only add to the strength of our cause which we are pleading.

Mr. HUMAYUN KABIR: Sir, I shall go further than my hon'ble friend who has just sat down, and I would say that this is a resolution on which I expected that there would be unanimity of opinion on the floor of this House. I do not know why he excluded one section of the members of this House, for I believe that if the resolution is properly analysed, there should be no ground why that particular section which he left out in his reference should not agree with us in carrying this resolution with its amendment unanimously.

Next, I turn to the speech delivered by the speaker who preceded Mr. Hamidul Huq Chowdhury, I mean our friend Rai Bahadur K. C. Banerjee. I submit, Sir, that his speech was entirely irrelevant so far as the proposal at present before the House is concerned. To-day we are not discussing the principle of federation; so far as I know, no one has ever suggested that the principle of federation is unacceptable. So far as I am aware, nobody has ever suggested that we do not accept federation of any type. Therefore, when the Rai Bahadur said that we should oppose both the resolution and the amendment because it opposes federation, I am entirely at a loss to understand what he means. The resolution before the House exclusively refers to the second part of the Government of India Act, 1935. Though it is true that the second part of the Government of India Act deals with Federation, yet, he will be a bold man who would say that no alternative scheme of Federation could be conceived other than that which is contemplated in the second part of the Government of India Act.

Rai KESHAB CHANDRA BANERJEE Bahadur: On a point of personal explanation, Sir——

Mr. PRESIDENT: Mr. Kabir is not giving way.

Mr. HUMAYUN KABIR: I would go further and say that the Rai Bahadur himself admitted that Federation, as enunciated in the

second part of the Government of India Act, 1935, is not a perfect one and his argument seems to be that since we have accepted the first part of the Act, we are, so to speak, duty-bound to accept the other parts. That again is an argument which I fail to understand. If something is offered to us, should we not have the power of discrimination and choice and distinguish the elements which are acceptable from those that are not? Because certain portions of what is offered to us, are welcome, shall we swallow without complaint even those elements that are repugnant to our taste? Provincial autonomy has some acceptable features, but with regard to federation, there are characteristics that go against our grain. We are, therefore, within our rights in fighting those provisions of the Government of India Act, 1935, that are detrimental to our interests, we are within our rights in rejecting with all our power, and using all the devices that we can invent in order to reject those elements which are unwelcome in our opinion. Therefore, I submit that up to now on the floor of this House there has been no opposition to the resolution which has been moved by my hon'ble friend Mr. Lalit Chandra Das. Up to now in this House there has been unanimity of opinion that Part II of the Government of India Act, 1935, is something which is detrimental to the interests of India and which should, therefore, be opposed.

Now I come to the amendment which has been moved by my friend Mr. Nur Ahamed. I would point out that this amendment is not contrary to or does not in any way replace the original resolution. The original resolution expresses our disapproval and dislike of the second part of the Government of India Act, 1935, and Mr. Nur Ahamed's amendment, I take it, suggests certain definite concrete methods by which the form of Federation as contemplated in the second part of the Act may be altered. I might add here for the information of the hon'ble members of this House that I have it from the hon'ble member that the form and language of his amendment has been taken almost literally from the motion which was moved by the Hon'ble Chief Minister of the Government of Madras in discussing the question of Federation in the Madras Legislative Assembly. Therefore, I submit that the two propositions which we have before the House, the original substantive motion of Mr. Lalit Chandra Das and the amendment moved by my friend Mr. Nur Ahamed, are not contradictory; they are not alternative; they are in fact supplementary to one another. One wants to express disapproval and dislike of the form of federation which is sought to be imposed upon us and the other only gives a particular concrete expression of the way in which the undesirable federation may be opposed, may be substituted and may be replaced by one which is more acceptable to us.

With regard to the question of the form of federation which is being imposed upon us, I do not want to go into details as that has

been done at very great length and with very great ability by the hon'ble the mover of the substantive motion, and the mover of the amendment also has added his weight to the discussion by pointing out the defects of the present form of the second part of the Government of India Act, 1935. Mr. Hamidul Huq Chowdhury has also contributed his quota.

I shall confine my remarks only to one or two aspects of the undesirable nature of the federation which is sought to be imposed upon us. I would say, as has been pointed out, that the Army is outside our control. Commercial discrimination, which alone might make it possible for the Indian Federation to use its power for the development of indigenous industries, is also out of our conrtol. We all know that it is only through the development of indigenous industry and through the growth of large-scale commercial undertakings that the poverty problem of India can be solved. That is the only way in which the problems of unemployment, ill-health and utter deprivation from which the people of our country are suffering can be solved, and yet we shall not be permitted to use the power of the State for the purpose!

There is one other aspect which is even more retrograde in the form of Federation contemplated by the second part of the Government of India Act, 1935, I refer to the relation between the Indian States and the provinces which have been constituted into Autonomous Governments. But here I should point out that the provincial autonomous units have to be organised before the federation can be brought into being. The fact is that it is necessary first to organise provincial autonomy before bringing in federation. There can be no federation unless the autonomous units are assumed. The corollary is that the power should lie with the provincial units and the federation should be there only to co-ordinate the activities of the different provincial units. There should not be much residuary power left in the federation and in the hands of the Governor-General of India.

But, Sir, turning to the point which I have mentioned before, I must emphasise once again the most retrograde aspect of the form of federation which is sought to be imposed upon us, i.e., the relation of the Indian princes to the provincial Governments of to-day. Under the proposed scheme, the Indian States and their representatives, and we know what this representation will be, we know that this representation in fact means nomination of certain persons by the Indian States, will participate in the activities at the Centre. The Indian princes are autocratic and not responsible to anyone. These persons will have a say in the governmental affairs of the provinces of India, but the representatives of the provinces will have no say in the Government of the States. In the provinces of India, we have democratic Government at least to some extent and in the

provinces there are certain representatives of the people. This principle of representation of the subjects is not at present admitted in the Indian States. Therefore, by giving this power to the Indian princes and their nominees, we are in effect introducing an element of retrogation, a reactionary element which will hamper the pursuit of a national policy by the Central Government. To complete the picture, I shall mention that even though the Indian princes have a voice in the control and direction of policy in the Indian provinces, we in the provinces have not been given any corresponding rights. Our laws shall not necessarily prevail in the Indian States, but the laws passed by the Centre with their co-operation and in certain cases at their initiative will be binding upon us. That, I submit, is most unfair and a most disturbing arrangement, because we are not given the power to interfere with their affairs, but they are given the power to interfere with our affairs.

I then come to the latter portion of the amendment which has been moved by Mr. Nur Ahamed, and I think, if our friends of the Congress benches have any objection to accept this amendment, it may be only because of the last two or three lines. I cannot conceive of any reason why they should not accept it. It is here said that the constitutional scheme of federation should be evolved in consultation with all responsible leaders representing all communities of India and the British Government. It may be that some of our Congress friends have some objection, because some of them are committed to the principle that we shall not go to any one for framing our constitution. They claim that we shall have a Constituent Assembly to frame the Constitution of India. Here I would only suggest this. There are only two ways in which we can envisage the realisation of full responsible Government. One is by way of agreement and the other is by way of conflict with and overthrow of the present Government established in India and the establishment of a new order through violent disruption of the present political life. I submit that it is not contemplated by any one to envisage such armed revolt at present, because I take it that the second alternative is not realisable in any other way. But to talk of establishing Indian autonomy by armed revolt is not practical politics to-day. The only other way of establishing autonomy is by forcing the British to come to terms, but this is itself a method of agreement though the agreement comes after a struggle. This is the method followed in all the provinces. In every case it is through the instrument of non-violent non-co-operation that they are trying to achieve that end. Therefore, to achieve that end, there must be mutual agreement; the evolution of the national political life is to be by mutual agreement between the British and the Indians though it may be after a struggle. I do not see how it can be achieved except through consultations between the British Government and the responsible leaders of opinion in India.

I think from that point of view; considering the weakness of our present position, there is no other alternative. I take it that this is the reason why Mr. Nur Ahamed and we want to replace the present constitution by a Federal Government in the framing of which we shall have a say. This must go lock, stock and barrel and this must be replaced by a constitution which is more acceptable to all sections of the Indian community. It must be replaced by a federation in which we can find something worth having, worth developing and not the mere mockery of responsible Government which is sought to be imposed upon us. In doing that, I ask this House to consider only one question. If there is to be solution by agreement there is no other method except through consultation between the British Government and the responsible leaders of Indian opinion. I contend that this resolution and its amendment are in no way contradictory but merely supplement one another. are only complementary to one another. I further contend that to this resolution and its amendment, there can be no opposition in this House and I am confident that my European friends will express their agreement with them. As the citizens of a free country, they have struggled and fought for their freedom, and as such they must sympathise with and welcome the Indian aspiration for freedom. The only other alternative way of achieving that is armed conflict with bitterness and rancour and hatred and suffering. If they remember this, I am sure that, with whatever qualifications it may be, they will give their support to the resolution and the amendment which have been moved on the floor of this House.

Mr. SHRISH CHANDRA CHAKRAVERTI: Mr. President, Sir, I shall be very brief, as I wish just to explain the position of the Congress in this matter. I am very glad to find that practically the majority of the House want to be unanimous about this resolution. And I must also make it clear at the outset that Congress is not opposed to Federation on principle, but to Federation as contemplated in Part II of the Government of India Act, 1935, we have great objection, and there are graver objections which have been explained by the previous speakers. The resolution runs thus: "That this Council do present an address to the Governor for submission to His Majesty with the request that His Majesty may be pleased to communicate to the Parliament the following resolution:—That Part II of the Government of India Act, 1935, be not brought into operation as being highly detrimental to the best interests of the people of India." To this resolution, Sir, an amendment has been moved by my friend Mr. Nur Ahamed that "this Council hopes that the Government of Britain will respect the wishes of the people of India and immediately devise means, even for the transitional period, to set up a Central Government free from the objectionable features of the federal

scheme, as embodied in the Government of India Act, 1935, to be evolved in consultation with all the respectable leaders representing all communities of India."

Sir, the Congress position is this. We always claim the right of self-determination and we are not going to ask the British Government to evolve another constitution for us; and again to see whether that constitution will be free from the irregularities and objections which mark the present constitution. My friend Mr. Kabir and others have thrown suggestions—and very kind suggestions indeed—to come to a unanimity and we heartily desire that such unanimity particularly on this point should be arrived at. But as I have already explained the position of the Congress, the amendment which is now before the House offends against the principle of self-determination; if the language were changed a bit so as to suit our purpose and so that the Congress position might not be in any way compromised, then, in that case, Sir, we shall be very glad to accept the amendment.

Mr. E. C. ORMOND: Mr. President, Sir, I would respectfully suggest to the hon'ble members of this House that it is a little late now to take objection to the scheme of federation which has now been embodied in the Government of India Act, 1935. I have noticed that all hon'ble members who have referred at all to the time-factor have referred to the Government of India Act, as if it was a thing which had just come before their notice, and as if they had never heard of it before, and had never thought of it before! But, Sir, it is a matter of recollection that as long ago as December 1931 this question was considered both in India and in England and it was debated in both Houses of Parliament. If I may have your permission, Sir, to read one paragraph from the Introduction of Proposals of Indian Constitutional Reforms, I may say that in December 1931, both Houses of Parliament adopted a motion "expressing approval of the Indian policy of His Majesty's Government, as announced to the Indian Round Table Conference and set out in Paper 3972. That policy stated in the broadest terms involved the prosecution of further enquiries and discussions with the object of finding a suitable basis for the conversion of the present system of Government in India, into a responsibly-governed Federation of States and provinces, on the understanding that the responsible Government so established, must, during the period of transition, be qualified by limitations in certain directions."

It is quite clear that this Federation of States and provinces has been the basis of the Act of 1935. The recommendations or assent of the Europeans in India to many of its provisions were only given on that basis. It is quite clear that any one who desires to think about the matter should have thought about it as long ago as 1931 and 1932. I would repeat, therefore, that it is a little late in the day, after the

Act has been deliberated upon in both countries and passed and, after —I would point out,—after the major benefits of the Act in relation to provincial autonomy have been acquired and enjoyed, then, for the first time to suggest that the Federation is a matter which should not even be considered.

Mr. RANAJIT PAL CHOUDHURY: Never too late to mend!

Mr. E. C. ORMOND: Well, Sir, on behalf of the group of this House, to which I have the honour to belong, I would say this that the attitude of the European Group in this House is based on a determination to implement the new Constitution. In the first place the group believes that the Act constitutes a real advance towards responsible Government. I further believe that no hon'ble member of this House will suggest that this Act, the Government of India Act, 1935, has not already in the part relating to provincial Government conferred great and substantial and practical benefits of self-Government on the people of India. Then we also believe that to work the Act is the best method of ensuring the practicability of the next step. And, further, we regard it so important that we should not be continually tinkering with the machinery of Government, but should concentrate on trying to make a success of the form of Government which has been laid down after so many years of thought.

Mr. NARENDRA CHANDRA DATTA: Laid down by whom?

Mr. E. C. ORMOND: To use a homely illustration, I would submit that no hon'ble member of this House, who buys a ticket from Calcutta to Bombay to travel by train, is going to spend his time before starting tinkering with the engine. I would in this respect crave your leave to quote the words of Lord Lothian, who emphasised another point on this question. He has said "I have met no responsible person who is opposed to Federation as such. This Federation is the only system whereby unity and national self-government can be combined with local diversity and autonomy in so vast a country as India." He goes on to say "It is the only method whereby India can escape the calamities and wars which have overtaken Europe through its division into twenty-six Sovereign States." I would ask your permission, Sir, to touch upon a subsidiary aspect of the matter. It has been suggested that no one in this House ought to have the impudence—that word has of course not been actually used—either the impudence or the lack of sense or the crass stupidity to oppose this motion which, it has been suggested by all the rest of the House, has been agreed to. With regard to that, I would just like to emphasise this minor point. Europeans in India are as much concerned with the future of India as Indians in India. I would suggest with the greatest sincerity to all the hon'ble Indian

members of this House that the measure of a man's affection for the land he lives in and the measure of a man's sense of duty to the land in which he works, is not measured either by the age which he has already acquired, or by the number of years that he expects in future to live.

I would suggest, Sir, that there are young Indians who are just as patriotic as old Indians with white hair and I would suggest for the consideration of the hon'ble Indian members of this House that Europeans who may be here thirty years,—they may be here twenty years, they may be here fifteen years or some of them, who come and go, may be here only for five years—those Europeans merely because they are here to spend only a portion—though the greater portion and the better period of their life in this country are not be classed in the same category as one who has no affection for India or no sense of duty to India, and I will say that in expressing the view of Europeans on this question, it should be realised that the views they express are expressed sincerely with regard to the benefit of this fair country as a whole. I would only say again, Sir, that the length of the years of a man's life,—whether he be Indian or of any other nationality,—which he expects to spend in India is not to be taken as a measure of his sense of duty to that country. With that introduction, Sir, I would venture to point out that in regard to Federation there are several classes of people who are concerned with this question of Federation. There are the Indians who are living in British India: there are the Europeans who are living in British India: there are the Indians who are living —either as owners or not as owners—in the Indian States: and there are the Europeans who are living in the Indian States: and there are the Europeans who are living in the United Kingdom: and the Crown. For anything to be done by agreement, all these would have to agree. The fact that the majority of one Assembly in one province wishes to oppose Federation does not put their opposition necessarily on any plane of practical politics. Now, Sir, take another example. Assuming instead of the whole of the many square miles of this fair country of India, a case where we are considering only a matter of an estate of one thousand bighas; assuming that the owner of that estate happens to be abroad, and also assuming that negotiations are entered into between the owner of the estate abroad and the people, the agriculturists on the estate here as to how they will manage that estate, it would be, I suggest, a mere mockery if in the first place there was a sound and equitable agreement by consent with good feeling on both sides entered into between the owner who was abroad and the people who were here as to how the estate should be managed—it would be a mere mockery of all practical politics, if after that agreement the people who are here were then to say, "we are interested in this agreement and in the arrangements and facilities which have been promised by the owner who is abroad, but we prefer to enter into

new negotiations amongst ourselves and we will make our own new negotiations in, let us call it, a constituent assembly over here, and we will then send the result of our deliberations by post to the landlord, the owner, who happens for the time being to be abroad and we will say to him, because we have agreed over here to this arrangement of doing this and that and diminishing your share in the control, therefore you are expected to accept."

I would suggest, Sir, that without an alternative to the present scheme of Federation, to talk of a constituent assembly amounts merely to hollow words: after all these years when every portion of public opinion in this country has been given an opportunity to express itself, and it has expressed itself, and the best working arrangement that could be devised has been put on paper, then to say now that it is time to go back after merely taking advantage of the benefits of the Constitution, and that as far as any one portion of the people are concerned, they would like to omit the portions which are not to their liking and that they would like to have a constituent assembly who, it is suggested, will automatically agree to these matters which have been the source of so much controversy for all these years!

I was interested to notice that the hon'ble speakers who spoke glibly of a constituent assembly were not kind enough to inform us as to how that constituent assembly was going to be constituted. Therein is the greater part of the difficulty: there is the crux of the matter —who is to have the greater share in the management of this fair country. Of course, if it is arranged and agreed that only that one section of Bengal sitting within the four walls of this House are to have the whole share of the management of this country, then, Sir, it is natural and easy for those people, if they are short-sighted and not otherwise, to agree among themselves that they may have a constituent assembly in which their own forces will be uppermost and in that constituent assembly something will be devised, and the fact that it is devised will be sufficient reason in itself to say to all the other persons, the princes, the people of the United Kingdom, the Crown, the Europeans in India and all the other people who may also wish to have a share in the management in this country, that the mere constitution of the constituent assembly should be enough reason to impose its views on those persons who would by them be excluded from being within the deliberations of that Assembly. I would ask your leave, in spite of the bell, warning me that I have reached the time-limit, only to make one other observation.

Is it not premature to say that the scheme of Federation which has been foreshadowed in this Act is bad before it has been worked? Many of the members of the same party as those who have spoken today against Federation were hot in their wiseacre prophecies and their criticism of the whole section of the Government of India Act, 1935,

which dealt with provincial autonomy. They said that it would not work. But, Sir, it has worked very well.

Mr. RANAJIT PAL CHOWDHURY: After an assurance.

Mr. E. C. ORMOND: If it has not worked, it would be better, Sir, if the hon'ble member did not waste his time coming to this hon'ble House.

Mr. NARENDRA CHANDRA DATTA: To keep watch only.

Mr. E. C. ORMOND: As the bell has gone, Sir, I will say no more, but merely to say this, if I have your leave in spite of having exceeded my time, to say in all sincerity that this Act has in it all the seeds of a Constitution which can be shaped according to the people's desires; and the time for so shaping it should come after and not before it is being put into effect. If I might quote, Sir, from an article in a paper issued recently in reference again to Lord Lothian's comments on the position, it is put in this way. "Finally he emphasized that the Constitution contrary to the widely held belief had in it the seeds of growth through convention or revision." And, Sir, I would respectfully suggest to the people who are now inclined to oppose this Federation to give it a trial.

Mr. NAZIRUDDIN AHMAD: Mr. President, Sir, I rise to suport the amendment of Mr. Nur Ahamed——.

Mr. BANKIM CHANDRA DATTA: Sir, may I with the permission of the House beg leave to move a very short amendment? It is really a verbal amendment and a very short one.

Mr. PRESIDENT: I can accept it only if it is the sense of the House. Ordinarily such amendments are not accepted.

Mr. BANKIM CHANDRA DATTA: If I only read those words, I think it would be acceptable to the House. The only words which I want to add are towards the end of the amendment moved by Mr. Nur Ahamed. That is I want to add these words: "recognizing our right of self-determination".

Mr. NUR AHAMED: I beg to accept the amendment.

Mr. PRESIDENT: It is no question of acceptance of the individual member. Once it is moved, it is the right of the House, and it is for the House to say whether it will accept it or not.

(Several members signified their assent.)

Mr. PRESIDENT: I take it that it is the sense of the House to accept these words to the amendment moved by Mr. Nur Ahamed.

The amendment was accepted.

Mr. NAZIRUDDIN AHMAD: Sir, in rising to support the amendment of Mr. Nur Ahamed, I wish to suggest therein another amendment of a merely drafting nature. It is merely verbal and is calculated to improve the text of the resolution. If you have no objection I may suggest the same. I would introduce instead of the words "Britain will respect *that* wishes" the words "Britain will respect *the* wishes", and again later on instead of the words "even for transitional period" I would like to substitute the words "even for *the* transitional period". Sir, as this is a very serious resolution and as it is proposed to be forwarded to His Majesty's Government at Home, I venture to think that it should be free from mistakes. That is why I suggest these changes and I believe the House will have no difficulty in accepting it.

Mr. PRESIDENT: May I take it that it is the sense of the House to accept the verbal amendment?

(Several members signified their assent, and the amendment was accepted.)

Mr. NAZIRUDDIN AHMAD: So far as the idea of Federation is concerned, it was first conceived in the boat which carried some influential delegates to the first Round Table Conference. The House well knows that the Simon Commission dealt with questions relating to British India alone. There was another Commission which was the Butler Commission which dealt with questions about the Indian States. These Commissions were absolutely independent things. But from an All-India point of view they were complementary to each other. So when the delegates from British India and those for the Indian States met in the same boat while going to join the first Round Table Conference, they talked together and they became suddenly enamoured of the picture of a united India and the idea of a Federation for India was born. They thought they had solved the problem once for all by merely agreeing to that principle. The novelty and grandeur of the first picture did not allow them to consider the details or the machinery for the same. Sir, at the first Round Table Conference we find there was an enthusiastic support for this idea, and so far as that idea is concerned, we find here in the House to-day and everywhere that everybody is wedded to the idea of Federation, as such, in the abstract. It is only with regard to the details thereof that difficulties have arisen and objections have been raised. Mr. Ormond, whose opinion is entitled to great weight on a question like this, has observed that it is too late now to raise this question. I must humbly submit a few reasons

why this objection is being raised at this stage. The first reason it seems to me is that idea of Federation was new and the country had no experience of it. Nobody could really visualize during the discussions what Federation would be like when it would be a finished product. It is only when we examine the Act and its concrete provisions a little carefully, that we realise its difficulties. Before the passing of the Government of India Act, 1935, the Indian princes as well as the leaders from British India were merely enthusiastic about the Federal conception. The transition from hearty approval to scepticism and gradually to rejection of the details has been dealt with by an eminent authority whose name must be very familiar to Mr. Ormond. It is the aothority of Professor Keith, who is a great expert on constitutional questions. In his recent book "A Constitutional History of India, 1600—1935", he describes this very question as to how the mind of the people of India has veered round from acceptance to rejection. May I have your permission, Sir, to read only a few relevant sentences?

Mr. PRESIDENT: Yes.

Mr. NAZIRUDDIN AHMAD: "The British Indian politicians welcomed at first with enthusiasm the idea of making with the princes a common stand against British control. Many leaders were decidedly oligarchic, or aristocratic, or conservative in their views and they saw no objection to having in the representatives of the princes an assured strength of conservatism to prevent any risk of democratic encroachment. It was only gradually that it came to be realized by the more advanced and moderate politicians that the princes were engaged essentially in the business of securing a definite position whence they could defy the introduction of any democracy in their dominions, and they would rather act more as a support for British control than as furthering Indian autonomy."

Mr. HAMIDUL HUQ CHOWDHURY: I move that the question may now be put, Sir.

The Hon'ble Khwaja Sir NAZIMUDDIN: I think the hon'ble member ought to know the courtesy that a motion of closure is never moved when a member is speaking.

Mr. PRESIDENT: Order, order. Of course there is no rule barring the closure of a motion even in the midst of a speech. But it is, except under very extraordinary circumstances, never accepted, and I desire that such a motion may not be moved ordinarily in the midst of a speech.

Mr. NAZIRUDDIN AHMAD: I am grateful to you, Sir, for the ruling. It has been said that the objection is only a recent phase in Indian thought. With regard to the Muslim League I say, Sir, without fear of contradiction that the Muslim League opposed the Federation in its details from the very beginning and has left the world in no doubt about it whatsoever. The princes who were very enthusiastic about the Federation at the very early stages are now resiling from their position. They are continually trying to have an ever increasing dominating voice in the Federation and this is another disturbing factor on the mind of the people of British India.

The Congress also objected to the Federation from the very beginning. So we find that there have been objections from the beginning right up to the present time and these objections would continue for some time. There was objection to the details of Federation from all responsible quarters from the very start and this feature is not a recent growth though it has intensified recently. While there is objection from every responsible representative body in the country, there is one precious body in India which is ready to support and support very enthusiastically, the Federation as it is in the Act. It is the Hindu Mahasabha. This happy body says that it is prepared and is ready to accept Federation with all its implications. It has even prayed to the Government to expedite its inauguration. So, except this highly technical and communal body, every section in India is united in disapproving the Federation. I submit that for all these reasons the resolution should be supported by all sections of the House. There is another reason why the resolution should be supported. It is that several stringent safeguards have been introduced into the Federal Constitution and it was possibly partly due to the fact that the Congress was then very much accustomed to talk of severance of British connection. The British public were very much disgusted with this and they introduced all these safeguards. I believe that the Congress has come into our fold and is ready to behave like good boys like ourselves and I think there is no longer any reason to retain those safeguards. There is, therefore, ample reason why the British authorities should be prepared to reconsider the position and give us a better Federation which would be more acceptable to all the sections of the people.

Mr. NARENDRA CHANDRA DATTA: I move that the question may now be put.

Mr. PRESIDENT: The question before the House is that the words "recognising our right of self-determination" be added towards the end of the amendment moved by Mr. Nur Ahamed.

The question was then agreed to.

Mr. PRESIDENT: The Hon'ble Minister has a right to speak now or after the reply is made.

The Hon'ble Khwaja Sir NAZIMUDDIN: May I speak, Sir?

Mr. PRESIDENT: Yes.

The Hon'ble Khwaja Sir NAZIMUDDIN: I just want to say a few words to announce the policy of Government on this resolution. As the House is aware, this resolution offends against section 91 of the Legislative Council Rules and Standing Orders, namely, that this is not primarily the concern of the Local Government.

Mr. HUMAYUN KABIR: It is a matter of question.

The Hon'ble Khwaja Sir NAZIMUDDIN: It is not a matter of question, it is obvious. Therefore the policy we have adopted in all such resolutions is that Government will express no opinion whatsoever and take no part but will forward the proceedings of this House to the suitable quarters.

Mr. PRESIDENT: The original motion moved is as follows:—

"That this Council do present an address to the Governor for submission to His Majesty with the request that His Majesty may be pleased to communicate to Parliament the following resolution:—

"that Part II of the Government of India Act, 1935, be not brought into operation as being highly detrimental to the best interests of the people of India"

Since which an amendment has been moved by an hon'ble member which runs as follows:—

That after the words "the following resolution" the words "this Council recommends to the Government of Bengal that the opinion of this House be communicated to His Majesty's Government of Britain" be inserted and at the end of the motion so amended, the following be added namely:—

"and this Council hopes that the Government of Britain will respect the wishes of the people of India and immediately devise means, even for the transitional period, to set up a Central Government free from the objectionable features of the federal scheme as embodied in the Government of India Act, 1935, to be evolved in consultation with all the responsible leaders of all communities of India recognising our right of self-determination."

Mr. NUR AHAMED: May I withdraw my first part of the amendment?

Mr. NAZIRUDDIN AHMAD: That is open to objection as it would offend against certain rules.

Mr. PRESIDENT: There are objections; it cannot be withdrawn now.

Mr. NAZIRUDDIN AHMAD: I wish to explain so that my objection may not be misunderstood.

Mr. PRESIDENT: You are not to give any reasons for it.

The question before the House is that this Council do present an address to the Governor for submission to His Majesty with the request that His Majesty may be pleased to communicate to Parliament the following resolution:—

"this Council recommends to the Government of Bengal that the opinion of this House be communicated to His Majesty's Government of Britian that Part II of the Government of India Act, 1935, be not brought into operation as being highly detrimental to the best interests of the people of India and that this Council hopes that the Government of Britain will respect the wishes of the people of India and immediately devise means, even for the transitional period, to set up a Central Government free from the objectionable features of the federal scheme as embodied in the Government of India Act, 1935, to be evolved in consultation with all the responsible leaders representing all communities of India, recognising our right of self-determination".

The resolution was agreed to.

Adjournment.

The Council then adjourned till 3-30 p.m., on Friday, the 25th February, 1938.

Members absent.

The following members were absent from the meeting held on the 24th February, 1938:—

(1) Datta, Mr. Kamini Kumar.
(2) D'Razario, Mrs. K.
(3) Esmail, Khwaja Mahammad.
(4) Jan, Khan Bahadur Shaikh Muhammad.
(5) Laidlaw, Mr. W. B. G.
(6) Lamb, Mr. T.
(7) McFarlane, Mr. J.
(8) Mookerji, Dr. Radha Kumud.
(9) Sinha, Rai Bahadur Surendra Narayan.

B. G. Press—1938-39—1402A—900.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 25th February, 1938, at 3-30 p.m., being the sixteenth day of the First Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble MR. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Travelling and Daily Allowances of the Ministers.

183. Mr. MOAZZEMALI CHAUDHURY (on behalf of Mr. Humayun Kabir): Will the Hon'ble Minister in charge of the Finance Department be pleased to state—

(*a*) whether it is a fact that rules governing the travelling and daily allowances of the Ministers have been approved by an executive order of the Government and are such regulations valid without the sanction of the Legislature; and

(*b*) whether it is a fact that there is no provision for allowances to the Ministers in the Government of India Act, 1935, in contradistinction to the position of the Speakers, the Presidents and other members of the Legislature?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Finance Department): (*a*) Yes.

(*b*) Section 78 (*3*) of the Act mentions the allowances of Ministers but there is no provision requiring those allowances to be fixed by the Legislature.

The Scale of Travelling Allowances of the Executive Councillors and Ministers.

184. Mr. MOAZZEMALI CHAUDHURY (on behalf of Mr. Humayun Kabir): (*a*) Will the Hon'ble Minister in charge of the Finance Department be pleased to state the scale of travelling and

daily allowances drawn by Executive Councillors and Ministers before the 1st April, 1937, and the scales of travelling and daily allowances actually drawn by the Ministers since the 1st October, 1937?

(*b*) Is it a fact that some or all of the Ministers have drawn both daily allowance and mileage or travelling allowance for the same date?

(*c*) Is the scale of travelling and daily allowances of the Ministers since 1st October, 1937, the same as was in force in the period between the 1st April and 30th September, 1937; if not, what are the respective figures for the two periods?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Finance Department): (*a*) The rules in force before the 1st April, 1937, will be found in Subsidiary Rules 97 and 98, a copy of which has been placed in the Library. The rules in force at present are the same, subject to certain amendments, now in the hands of the draftsmen, which will shortly be promulgated.

(*b*) No.

(*c*) I invite a reference to my answer to part (*a*) of this question.

Number of Third Class Tickets allowed to a Minister.

185. Mr. MOAZZEMALI CHAUDHURY (on behalf of Mr. Humayun Kabir): Will the Hon'ble Minister in charge of the Finance Department be pleased to state—

(*a*) the number of third class tickets exclusive of orderlies and peons allowed to each Executive Councillor or Minister before the 1st April, 1937;

(*b*) the number of third class tickets, exclusive of orderlies or peons, allowed to each Minister since the 1st October, 1937; and

(*c*) whether the number of third class tickets, exclusive of orderlies and peons, allowed to each Minister, since the 1st October, 1937, is the same as that allowed from the 1st April, 1937, to the 30th September, 1937; if not, what are the respective figures for the two periods?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Finance Department): (*a*) The information is contained in Subsidiary Rules 94 and 97.

(*b*) The same as in Subsidiary Rules 94 and 97.

(*c*) I invite a reference to my answer to part (*b*) of this question.

Total expenditure for Travelling and Daily Allowances.

186. Mr. MOAZZEMALI CHAUDHURY (on behalf of Mr. Humayun Kabir): Will the Hon'ble Minister in charge of the Finance Department be pleased to state the total expenditure incurred from public revenues on account of the travelling and daily allowance bills of all the Ministers for the periods from the 1st April, 1937, to the 30th September, 1937, and from the 1st October, 1937, to the 31st December, 1937, respectively?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Finance Department): A statement is laid on the Library table.

Statement referred to in the reply to question No. 184.

		Rs.	a.	p.
Expenditure from—				
1-4-37 to 30-9-37	..	15,971	1	3
1-10-37 to 31-12-37	..	16,790	3	0
Total	...	32,761	4	3

Appearing at the I.A. and the B.A. Examinations as Private Students.

187. Mr. H. P. PODDAR: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to say if it is a fact that only school teachers, school librarians and female students are granted the privileges of appearing as private students in I.A. and B.A. Examinations?

(*b*) If so, will the Hon'ble Minister please state on what principle the same privilege is denied to other deserving students and the reasons for which the privilege is denied to the latter?

(*c*) Is it a fact that a good number of detenus have come out successful in the Intermediate, Degree and Law Examinations of the Calcutta University without joining the college classes?

(*d*) Is it a fact that hundreds of our poor students are being shut out every year from obtaining University degrees due to such regulations?

(*e*) Does the Hon'ble Minister propose to move the University to relax the rigidity of these rules and regulations in force now regarding the privilege of appearing in all the Arts, Commerce and Law Examinations as private students in the case of deserving students?

The Hon'ble Mr. MUKUNDA BEHARI MULLICK (on behalf of the Minister in charge of the Education Department): (*a*) The hon'ble member is referred to Chapters XVI and XVII of the Calcutta University Regulations. Permission to appear in special cases can be, and is, granted by the Senate on the recommendation of the Syndicate.

(*b*) Does not arise.

(*c*) Yes, but so far as I am aware these detenus were college students before becoming detenus.

(*d*) This is a matter of speculation.

(*e*) No, in view of my answer to (*a*).

Realisation of Rent by Certificate Procedure.

188. Mr. NUR AHAMED: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state in how many cases rents were realised by the certificate procedure under the Public Demands Recovery Act (Act III of 1913), at the instance of the *khas tahsildar*, Sadar, Chittagong, in respect of petty *jotes* bearing a yearly rental of Re. 1 or less in the year 1936-37?

(*b*) Will the Hon'ble Minister be pleased to state in how many of these cases warning post-cards were sent to the *jotedars* prior to the issue of the certificate as provided by the instruction of the Board of Revenue?

(*c*) Will the Hon'ble Minister be pleased to state in how many of these cases, notices of demand were served on the *jotedars* prior to the issue of the certificate?

(*d*) Will the Hon'ble Minister be pleased to state in how many of these cases, the costs of the certificate amounted to ten to twenty times the yearly rent of the *jote*?

(*e*) Will the Hon'ble Minister be pleased to state whether the *khas tahsildar*, Sadar, Chittagong, observes the instructions of the Board of Revenue, namely, that the *tahsildar* or the manager must certify that he or one of his responsible subordinates has personally demanded payment of the arrears of rent when applying for a certificate?

(*f*) Will the Hon'ble Minister be pleased to state in how many cases certificates for arrears of rent and cases for less than Rs. 5 were issued by *khas tahsildar*, Sadar, Chittagong, in the year 1936-37?

(*g*) Is the Hon'ble Minister considering the desirability of promulgating rules for strict observance of the Board's instructions in the matter?

(*h*) Will the Hon'ble Minister be pleased to state what percentage of the total collection of the Sadar *khas mahal* in 1936-37 was made by the collecting *mohurrirs*?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) 3,228.

(*b*) and (*c*) In all the cases.

(*d*) 98.

(*e*) Yes.

(*f*) 5,288.

(*g*) In view of the answers to (*b*), (*c*) and (*e*), the question does not arise.

(*h*) 78 per cent.

Silting up of the river Titash.

189. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state—

(*a*) whether in view of the fact that the Government stated in reply to my question No. 114 on the 22nd September last that—

(*i*) the river Titash irrigates a considerable tract of land at Akhaura side,

(*ii*) owing to silting up of its bed at Akhaura side there is considerable decrease in quantity of crops there which used to grow before,

(*iii*) there is considerable decrease of trade by boat, and

(*iv*) Akhaura a railway junction of the Assam-Bengal Railway is a great centre for jute,

the Hon'ble Minister intends to take any definite and early steps to save the situation, if so, what steps would be taken;

(*b*) what would be the cost of dredging the Titash river south of Akhaura, and how long if dredged, its effect is expected to last;

(*c*) whether it is not worth experimenting with dredging in view of the grave menace to the locality;

(*d*) whether it is a fact that in the *beel* that exists between villages Barisal and Bhaishnabpur there is a water passage of about two miles long whose eastern end falls in the river Titash at Akhaura and whose other end falls also in the same river in the west; and

(*e*) whether if the dredging suggested in question No. 114 as stated before does not find favour with the Government, the Hon'ble Minister will consider the urgent necessity of opening up

and deepening the water passage particularly by cutting it deep at the two ends and making its bed of the same level particularly at these two ends with the bed of the river Titash?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) No.

(*b*) and (*c*) The cost of dredging has been estimated at Rs. 80,000. It would probably benefit the area for about three years by which time shoals would form again. In view of this it is not worth experimenting with dredging.

(*d*) Yes.

(*e*) The water passage is liable to be resilted quickly due to the deposit of a large quantity of silt brought by the Howrah river. It is not therefore proposed to take up its re-excavation.

Middlemen in the Jute Trade.

190. Mr. RANAJIT PAL CHOUDHURY: (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state whether it is a fact that the jute cultivators are debarred from obtaining the actual price of jute prevalent in the market owing to want of Government measures for preventing the middlemen from taking away the major portion of the price of jute by way of their own profit?

(*b*) (*i*) Is the Hon'ble Minister aware that the poverty of the jute cultivators is due to the absence of any Government machinery through which they could sell their produce directly to the jute balers or exporters without the intervention of the middlemen?

(*ii*) If not, does he propose to enquire and take steps to provide a machinery by which jute cultivators will have opportunities of getting the market price of jute for their commodity? If not, why not?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) No. I think the statement that middlemen take away the major portion of the price of jute by way of their own profit is far from correct.

(*b*) (*i*) No. I have no reason to suppose that the complete elimination of middlemen is either feasible or likely to solve the problem of the poverty of the jute cultivator.

(*ii*) I am aware of the need to improve the arrangements for the marketing of jute and I am taking steps to secure that object. The

Central Jute Committee are already investigating this question through a specially appointed marketing staff working in collaboration with the Department of Agriculture. I have also made provision in my budget for next year for a scheme to expedite the necessary investigation and to prepare proposals for the establishment of regulated markets for jute on the lines of the regulated cotton markets in the Central Provinces and Bombay.

Mr. RANAJIT PAL CHOUDHURY: Is the Hon'ble Minister aware that large amounts of money are advanced to jute cultivators by jute magnates and jute dealers in order to secure from the cultivators their products at a mere song?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I am aware that money is advanced, but I do not know if the jute is secured at a mere song.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Will the Hon'ble Minister be pleased to state if he is aware that the Co-operative Jute Society failed and that most miserably?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Yes.

Mr. RANAJIT PAL CHOUDHURY: With reference to answer to my previous supplementary question, will the Hon'ble Minister be pleased to state whether these people who advance money secure the jute for a mere song?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I am definite that it is not so.

Mr. KADER BAKSH: Will the Hon'ble Minister be pleased to state if such staff has been working for controlling the price, or for enquiring into the system of marketing through any societies?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I am very sorry that my hon'ble friend has not read my answer rightly.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state if the answers he gave to my supplementary questions are not contradictory?

(No reply.)

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Hon'ble Minister aware that the Royal Commission on Agriculture recommended in 1928 that this regulation of the market regarding jute and other commodities should be established immediately?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I cannot say anything of the action of the old Government. This Government has been established in 1937 and I am now trying to establish regulating markets according to the recommendation of the Royal Commission on Agriculture.

Mr. KADER BAKSH: With reference to answer (*ii*), will the Hon'ble Minister be pleased to state if any such attempt has been made? If so, in what district are investigations being made and what special steps are being taken?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: The marketing officer is investigating the whole question of regulating marketing and a scheme has been presented to me. In the Budget you will find that funds have been provided for two experimental markets, one at Hajiganj and the other at Sarisabari for regulating jute market.

Rai KESHAB CHANDRA BANERJEE Bahadur: Will the Hon'ble Minister be pleased to state whether he intends to examine the question of the revival of the Jute Sale and Supply Societies?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Unfortunately I cannot say, because that Department is not in my charge.

Short-notice Question.

Mr. NARENDRA CHANDRA DATTA: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether the Government of Bengal made any representation to the Government of India protesting against the proposed release of political prisoners in the United Provinces and Behar and requested the Government of India to intervene and stop such orders of release in those provinces?

(*b*) If so, will the Government be pleased to state the reasons which prompted them to make such a representation?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) No.

(*b*) Does not arise.

Non-official Motion under section 118 of the Rules and Standing Orders.

Mr. NARENDRA CHANDRA DATTA: I beg to move that this Council is of opinion that an address be presented to His Excellency the Governor of Bengal inviting His Excellency's attention for fixing the official and non-official business of the Council during the session, at least four weeks before the House is actually sitting, for the convenience of the members, in making arrangement for their personal and other duties.

Sir, the resolution is so very clear that it does not require a speech from me for making the Council realise the meaning of this resolution. It is a well-known fact that there are many members who come from long distance, from the mufassil and, they require a timely notice, so that they can arrange their business. I notice one thing that since I sent in this resolution on the 3rd of January last, we are getting programmes of business of this House regularly. What I want to have is—I am, of course, not particular about four weeks, it may be less if the House so desires or it may be less if the Government so desires—that sufficient time should be given to the members of this House to arrange their business, professional and other business, and I hope the House will consider this resolution favourably, so that the mufassil members and other members who have got other business may have sufficient time to arrange their programmes for their own business.

Mr. PRESIDENT: Motion moved: that this Council is of opinion that an address be presented to His Excellency the Governor of Bengal inviting His Excellency's attention for fixing the official and non-official business of the Council during the Session, at least four weeks before the House is actually sitting, for the convenience of the members, in making arrangement for their personal and other duties.

Mr. NUR AHAMED: I beg to move by way of amendment that for the words "at least four weeks" the words "at least three weeks" be substituted.

Sir, frankly speaking, I do not feel any enthusiasm for the original motion. I move this amendment because I am afraid that if the original resolution is accepted some difficulty may be created. I find from section 16 of the Rules and Standing Orders that power has been given to the Governor for summoning the Chamber at such time as he thinks fit. It is useless to remind the House that there is our Hon'ble President, who is expected to look to the convenience of the members of this House and suggest what time should be allowed for the consideration of official and non-official business. He is a man of experience and he will realise the difficulties of the members of this House. Really

speaking, we will not be justified in accepting this resolution and thereby creating some difficulty in the allotment of the time for the business of the House. I do not think, in the past too, short notice was given to the members to arrange their own private business. I appeal to the House to lessen the period of notice by accepting my amendment.

Mr. PRESIDENT: The amendment moved: for the words "at least four weeks" the words "at least three weeks" be substituted.

Mr. NARENDRA CHANDRA DATTA: I am quite prepared to accept the amendment moved by Mr. Nur Ahamed.

Mr. PRESIDENT: It is for the House to accept it.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, the amendment practically removes one of the serious objections to the resolution as under the clause and section quoted by the mover of the amendment, His Excellency the Governor in his discretion has got the right to call a meeting of the Legislative Council on a particular day and at a particular place and if notice is given to the members of what the Government business is going to be and what the non-official business is going to be and on what date they will be taken up within three weeks, then we take away the right exercisable by the Governor under the Act. Therefore this resolution without the amendment was, I think, open to serious objection. I appeal to the mover not to press this resolution because there are many practical difficulties in giving effect to it. I will place before the members what has taken place this session. The number of days that were fixed for non-official business had to be extended and in certain cases extra days had to be found for transaction of business which was not contemplated owing to the various special motions and adjournment motions that have been moved in the House. Besides that, it is extremely difficult to forecast beforehand what Government measures will be ready to be brought before the Legislative Council. In the case of the Legislative Council sometimes we have got to wait for the Legislative Assembly to get a Bill through before it can be brought before the former. You cannot anticipate how long it will take the Legislative Assembly to get a Bill passed. So it is practically impossible to say what Government business will come up before the Legislative Council even three weeks before the session begins. Let me cite an example. Supposing the Government wanted the amendment of the Bengal Tenancy Act to come up to the Legislative Council in the last session as they have been under the impression that within fifteen days the Legislative Assembly will pass that Bill and they would be in a position to send that up immediately to the Legislative Council, they could not do it because the Legislative Assembly took more than fifteen days to get

that Bill through. Any forecast three weeks ahead of the Government business likely to come up to the Legislative Council is not possible. But Government can give this assurance that they will try their utmost to give notice to the members of the business that is likely to come up as early as possible and of the days that are to be allotted for official and non-official business. In the Rules Committee's Report which is coming up before the Legislative Council if this suggestion is accepted, namely, that there should be a fixed day for non-official business, then this question will not arise, for example, you have non-official business on all Fridays. Then members will know that as long as there is non-official business, Friday is allotted for that. On other days Government business will have precedence, but supposing there is no Government business on those days, those days may be allotted for non-official business. If the rules are framed on that line then this motion will not be necessary, and as the Rules Committee's Report will come up for consideration before this House, if my suggestion is acceptable to the hon'ble members, then it can be provided in the Rules, and this motion may therefore be kindly withdrawn.

Maharaja Sir MANMATHA NATH ROY CHOWDHURY, of Santosh: Sir, I had no mind to take part in this debate; but I am afraid I must intervene and tell the Hon'ble Home Minister that he is labouring under a misapprehension. So far as I can see, the mover of the resolution or of the amendment in respect thereof did not contemplate to curb or take away His Excellency's prerogative in the matter of summoning the Council whenever he thought fit. In fact, that is not possible even by any rule. We cannot over-ride any of the provisions of the Act itself by any rule that may be framed thereunder contrary to any specific provision of the Act. Such a rule must be held as *ultra vires*. But what the mover of the resolution or of the amendment wants—if I am not mistaken, is a convention within the four corners of the relevant provisions of the Act, so that members of this House may not ordinarily be taken by surprise by Government—that they may ordinarily get sufficient notice of a meeting of the Council and of the subjects to be discussed at that meeting. They need time to properly adjust their own private business, and to get ready to take an active part in the proceedings of the Council. I think, the difficulty may easily be solved if the mover of the resolution agree to add to his resolution the word, "ordinarily" in the right place to make it innocuous, so that "ordinarily" Government may give longer notice than they usually do, but in cases of emergency His Excellency may exercise his power of summoning the Council at any time and at any place to deal with any matter. That power is unquestionable and absolute under the Government of India Act, 1935.

Mr. PRESIDENT: The original motion moved was that this Council is of opinion that an address be presented to His Excellency the Governor of Bengal inviting His Excellency's attention for fixing the official and non-official business of the Council during the session, at least four weeks before the House is actually sitting, for the convenience of the members in making arrangement for their personal and other duties; since which the following amendment has been moved: that for the words "at least four weeks", the words "at least three weeks" be substituted.

Now the question is that the amendment be made.

The Hon'ble Khwaja Sir NAZIMUDDIN: It appears, Sir, that the hon'ble mover is willing to withdraw his resolution.

Mr. PRESIDENT: Well, in that case, he must get up and say so.

Mr. NARENDRA CHANDRA DATTA: Sir, in view of the assurance given by the Hon'ble Home Minister, I do not think that I should press my motion. I would therefore beg to withdraw it.

Mr. PRESIDENT: You cannot withdraw it. The House is now seized of the motion and you may ask for leave of the House to withdraw and it is for the House to decide. I am now to enquire whether the hon'ble member has the leave of the House to withdraw the motion. (Cries of "yes" "yes".)

The motion of Mr. Narendra Chandra Datta was then, by leave of the House, withdrawn.

The amendment of Mr. Nur Ahamed accordingly fell through.

Calcutta Corporation and Electric Supply in the City.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, I beg to move that an address be presented to the Governor through the Hon'ble the President embodying the declaration of this Council that it is of opinion that His Excellency's Minister's refusal to accord sanction to the Calcutta Corporation to purchase the undertakings of the Calcutta Electric Supply Corporation within the municipal limits of Calcutta is detrimental to the best interests of the people of Calcutta and is fraught with the possibilities of retarding the economic development of the province and should not be persisted in and that the continuance of the present arrangement for the next ten years with the aforementioned Supply Corporation should be stopped and that His Excellency may be pleased to recommend that this opinion be duly and fully considered

in the Council of his Ministers before any final decision is taken about the continuance of the Electric Supply License of the said Supply Corporation.

Sir, in the matter of supply of electricity for domestic consumption, for lights and fans and for other domestic purposes, the Calcutta Electric Supply Corporation used to charge the citizens of Calcutta at the rate of annas 3 per unit. The charges were, however, different for big industrialists. In some cases it was even below the cost of production, and this was made possible at the expense of 99 per cent. of the rate-payers of Calcutta. Sir, that is exactly the way of all the exploiters all the world over, to fleece the poor and give to the rich and to get rich. In regard to public utility services, such as the Electric Supply Corporation, the opposite should be the rule. Since 1930, the eyes of the public were opened. They began to protest and so did the Calcutta Corporation, and although the Calcutta Electric Supply Corporation maintained that their irreducible minimum was three annas per unit, they had to yield in the end. Their irreducible minimum was brought down to two annas six pies per unit for domestic consumption. That, however, touched only the fringe of their vast profits, which they used to carry from year's end to year's end from India to England for spending there. Sir, the dissatisfaction of the public remained or rather continued, and the matter was referred to an Enquiry Committee presided over by a learned Ex-Judge of the Calcutta High Court, and that Enquiry Committee reported that the cost per unit could very well be reduced to one anna six pies, still leaving a margin of profit for the Company—yes, I say, Sir, still leaving a margin of profit for the Company, and also for the purpose of paying the expenses, not only for their Calcutta establishment but also for their establishment in England, where the cost is Rs. 50,000 or something like that every year.

The Hon'ble Mr. H. S. SUHRAWARDY: I do not like to interrupt the hon'ble member on this question of fact, but I think——

Mr. PRESIDENT: Are you rising on a point of order, Mr. Suhrawardy?

The Hon'ble Mr. H. S. SUHRAWARDY: No, Sir. I am asking the hon'ble member to read that document.

Mr. PRESIDENT: Well, the difficulty is that, unless the hon'ble member gives way, you cannot rise to say anything, unless that be on a point of order.

Mr. LALIT CHANDRA DAS: I am not giving way to you.

The Hon'ble Mr. H. S. SUHRAWARDY: Oh! no, no.

Mr. LALIT CHANDRA DAS: As I was saying, Sir, this irreducible minimum was further reduced—this irreducible minimum which was dictated by the Calcutta Electric Supply Corporation—was further reduced on the basis of that Report and was reduced to two annas per unit, and it was found that the Company was none the worse for this reduction. Sir, I instance this fact to show their eagerness even now for the continuance of the license.

Sir, Dr. B. N. Dey and Mr. Ghosh of the Commercial Gazette and other experts by facts and figures pointed out that the rate could go even below one anna or at least to one anna and would still leave a margin of profit to the Company. This would have satisfied that Company unless the Company opened its mouth too wide and would not be satisfied with anything less than an unconscionable profit. The Calcutta Electric Supply Corporation was incorporated in England under the English Company Law in the year 1907 and it began its operation in Calcutta under a license granted to it by the Government of Bengal. This license is now due to expire on the 20th day of October, 1938, and according to its terms and the Indian Electricity Act of 1910 the local body—the Calcutta Corporation—or even the Government can step in and take it up by purchasing and paying compensation to that Company. Sir, this is not to say that the Calcutta Electric Supply Corporation would work in Calcutta and its neighbourhood with twelve licenses and that the Calcutta Corporation must take up and redeem all the licenses and then purchase the undertaking. Now, it is open to the Calcutta Corporation to purchase only the Calcutta license, because under the Calcutta license the company works within the municipal limits of Calcutta. That is exactly what the Calcutta Corporation wants and desires that it should be allowed to purchase the undertakings of the Calcutta Electric Supply Corporation to carry on the supply of electricity within the municipal limits of Calcutta. The Calcutta Corporation even offered to the Government to take it up or in the alternative to allow it to take it up. Now, even a deputation consisting of some of the members of the Calcutta Corporation waited upon the Hon'ble Minister to acquaint him with facts and figures in connection with this matter. At that time, I venture to say, the Hon'ble Minister enthused over the suggestion. Sir, if the Government was sceptical of the powers of the Calcutta Corporation in this matter, that they would not be able to carry on this work and supply electricity to the whole city and would not be able to meet the needs of the rate-payers properly, the utmost the Government could do in the matter would have been to wait and see the tenders and the tenderers and examine their tenders and then to be satisfied about the capacity of the Company to do the

work and to give some relief to the rate-payers. But this the Government did not do. The Calcutta Corporation, in anticipation of purchase, taking it for granted that their own Government, the Government of the people—because the Government is now formed by the popular representatives—would give formal permission for purchase, and that they would be able subsequently to purchase, took the time by the forelock and, as a matter of fact, circulated notice in the United Kingdom, the Continent and the United States of America calling for tenders that whoever will be the agent of the Calcutta Corporation will have to meet the wants and needs of the rate-payers of the city of Calcutta and supply electricity at one anna per unit for consumption. Sir, at the scent of the first danger, the Chairman of the Calcutta Electric Supply Corporation came by the shortest air route from England to India and, it seems to me, the enthusiasm of the Hon'ble Minister then oozed out. He refused permission to the Calcutta Corporation for the purchase of the undertakings within the municipal limits of Calcutta. Not only did he do that, but he inflicted a sermon in addition. Now, as a matter of fact, he spoke about the dismemberment of the existing Company. How the question of dismemberment can at all arise in this matter, I for one fail to understand. I know, you know, and everybody knows and the Calcutta Electric Supply Corporation knew at the inception of the undertaking that as a matter of fact they were going to electrify the city within certain limits under the Calcutta license, and if now the Calcutta Corporation would press their claim and say that at the expiry of the license they must be given the right of purchase, how can the question of dismemberment arise? I for one cannot understand. Supposing for one moment that the Calcutta Electric Supply Corporation extends its operation beyond the municipal limits of Calcutta and takes over Bhatpara, Serampore and other places and jumbles up everything, is it fair for it to come forward and say, you must take the whole or nothing at all? Certainly, that would be unfair, I should say. As a matter of fact, the Calcutta license is a clear and definite license, and the Calcutta Corporation is a distinct body and it has the right to claim that within the limits of the municipality of Calcutta they should be allowed to purchase the undertaking. Now, it would be said by the Hon'ble Minister, what about the benefits to the rate-payers of the city? Should the rate-payers of the city be deprived of the benefits of electric supply by this Company? To this I should rather reply in short. Sir, for every pice less in the rate per unit of consumption there is a saving of Rs. 6,00,000 per year for Calcutta. So for four pice the citizens will get a saving of Rs. 24,00,000 every year which means a saving of 2½ crores of rupees in ten years which may go for the economic uplift of the whole province. Sir, contrariwise, if the existing Electric Supply Corporation were to continue to ply their trade merrily, what would be the result? The result would be that the company will take

away from the citizens of Calcutta the sum of Rs. 2½ crores as profit to be spent in England, and our popular Minister will sit by and watch the whole transaction as if nothing has happened. The Government will be, of course, within its rights and duty to thoroughly examine the tenders as well as the tenderers, and if it is satisfied, the only honourable course open to the people's Government would be either to take up the work itself or to give the matter over to the Calcutta Corporation. Sir, instead of doing that our popular Minister is supporting a foreign vested interest, and as a matter of fact, supporting with a reason, and that reason is put forward to silence the public, viz., the nationalisation of electricity in future, for the province as a whole. Nobody objects to nationalisation. Japan did it, even the United Kingdom stands for the State control of electricity in spite of the McGowen Report upon which the Hon'ble Minister will, I hope, wax eloquent. But I ask, what about the living present, what solution does the Hon'ble Minister propose for the living present to nationalise electricity? Is it a cover, viz., his grand scheme of nationalisation, to allow the Calcutta Electric Supply Corporation to continue its trade for another ten years? Is it a cover (Question!)—You need not question me now. Please keep notes and use them in your reply. Is it a cover to allow this Calcutta Electric Supply Corporation to trade merrily for another ten years, and in the meantime you go on scheming your scheme for nationalising electricity in Bengal? But instead of doing that, my suggestion is that by all canons of justice and fairplay, the Calcutta Corporation should be allowed to take up at least the Calcutta license and work it through, of course, by an agent. That agent may even be a foreign company, may be an English company, a Continental company or an American company. But the point in which the rate-payers are interested is the bringing down of the rate of consumption of electricity from two annas to one anna.

Sir, when that day of nationalization of electricity comes, we will be the first from this side of the House to send our congratulations to the Hon'ble Minister, but till that day comes, we must not allow ourselves to be hoodwinked by that plea, and should not allow the continuance of the license for another ten years to come.

Sir, before I conclude, I desire to draw the attention of the hon'ble members of this House to the latter part of my resolution. The latter part of my resolution says "His Excellency may be pleased to recommend that this opinion be duly and fully considered in the Council of his Ministers before any final decision is taken about the continuance of the Electric Supply License of the said Supply Corporation." Sir, it is not an adjournment motion; it is not a motion for censuring the Government. After all here is a motion in which we have expressed our views properly and decidedly, and all that we pray here is nothing

more nor less than that His Excellency may be pleased to recommend for consideration by the Council of Ministers. There is nothing extraordinary in it. It is not a censure motion and I do not see why there should be anyone in this House to stand between me and this resolution and to say "no" to it.

I resent when anybody would say that this Government is a Moslem Government. I resent if anybody would say that the Calcutta Corporation is a Hindu body. Neither description is accurate. I say our Government should not be jealous of the Calcutta Corporation, and in that hope I appeal to the Hon'ble Minister to consider favourably the motion which I now move.

Mr. PRESIDENT: Motion moved: that an address be presented to the Governor through the Hon'ble the President embodying the declaration of this Council that it is of opinion that His Excellency's Minister's refusal to accord sanction to the Calcutta Corporation to purchase the undertakings of the Calcutta Electric Supply Corporation within the municipal limits of Calcutta is detrimental to the best interests of the people of Calcutta, and is fraught with the possibility of retarding the economic development of the province and should not be persisted in and that the continuance of the present arrangement for the next ten years with the aforementioned Supply Corporation should be stopped and that His Excellency may be pleased to recommend that this opinion be duly and fully considered in the Council of his Ministers before any final decision is taken about the continuance of the Electric Supply License of the said Supply Corporation.

Mr. E. C. ORMOND: On a point of order, Sir. I see that under section 118 of the Rules and Orders of this House, provision is made for an address from the Council to His Excellency the Governor. It is well known no doubt, Sir, that the presentation of an address is the normal method for this House to convey a reply to a communication from His Excellency the Governor on lines similar to those which are adopted by the House of Commons when sending a reply to the address from the Crown as is indicated in May's Parliamentary Practice at page 602. Similarly, Sir, no doubt no one will contend that addresses cannot be presented also on other subjects, and I am ready respectfully to concede that those subjects on which address may, in extraordinary circumstances, be presented to His Excellency the Governor as to the Crown in England are numerous, as is also stated in May at pages 603, 604 and 605. But, Sir, is it the proper way to deal with ordinary matters of Government——

Mr. HAMIDUL HUQ CHOWDHURY: Is it a point of order or a speech, Sir?

Mr. E. C. ORMOND: I am only raising my point of order, and I do not want to be any longer than necessary to do so.

Is it your ruling, Sir, that for all ordinary matters of Government, it will be open to an hon'ble member to bring in a motion favouring a project that an address should be presented to His Excellency the Governor? Now, Sir, I can understand an address being presented to His Excellency the Governor if it was a matter to be decided entirely in His Excellency the Governor's own private discretion under the Government of India Act, 1935, but if it is, as this motion suggests, a matter for which he should take the advice of his Ministers, then is it not, Sir, a matter which should be dealt with on an ordinary footing by legislation or by an ordinary discussion within this House as between the hon'ble members and the Ministers of Government. That is the point which I raise, Sir, for your ruling, and I respectfully suggest that it would be a matter of considerable interest if you were able to give some sort of ruling either to-day or later which would guide us in the future to know for what matters it will be proper and for what matters it will not be proper to present a motion for an address on these lines.

Mr. PRESIDENT: The hon'ble member, Mr. Ormond well knows that unlike the British Constitution, the Indian Constitution is a written one and we are precluded from going beyond the four corners of the Statute and the Rules and Standing Orders. As regards this particular motion, a request was made by the mover of the motion to the Government to allocate a day for its discussion and the Governor in his discretion under section 16 of the Rules and Standing Orders fixed to-day for discussion. I find nothing in the present Rules and Standing Orders to debar such a motion. As a matter of fact, the right of moving an address to a speech from the Throne is a well recognised right not only in England, but also in the Colonies, but when an attempt was made in this House to move an address to the speech of His Excellency the Governor, the Government did not allow such a motion. So, as I said before, ours being a written Constitution, we cannot go beyond the four corners of the Statute and beyond the strict interpretation of the letters of the law. I therefore find nothing to debar a motion like this, particularly when the day has been allotted by the Governor in his discretion for its discussion.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Sir, I was really surprised to find that a leading member of the Congress Party brings in a motion asking for the intervention of His Excellency against a ministerial decision or action taken in the ordinary course of ministerial business (Laughter), while in other parts of India the Congress, the national organisation, wants to see that the Governor

does not interfere or intervene in the day to day business of administration except under certain definite circumstances, which every member knows, namely—breach of tranquility—there is no breach of tranquility here,—racial discrimination—you cannot say this is a question of racial discrimination, because it is a public limited company. You, I and everybody, can buy shares of the Calcutta Electric Supply Corporation. Sir, as a follower of socialism, I am out and out for nationalization of all public utilities. I would like my hon'ble friend to note that the Indian Electricity Act was enacted on the same lines all over the world to provide facilities to the citizens to exercise the right of socialisation of one of the primary needs of the city, namely, electric current. As a member of the Calcutta Corporation, I took part in the debate on this question. As a matter of fact, the discussion on this subject has become a thrice told tale, and every aspect of the question has been discussed, broadcasted through the Press, discussed in the Corporation, in the Lower House and in public meetings. So we need not repeat the arguments about the cheapness or dearness of current and the effect of municipalisation of the Electric Supply Corporation. But I do say this that if the Government is honest and sincere about the nationalization of Electric Supply hinted by the Hon'ble Minister; the other day we should all welcome it. Nationalization is the more efficacious step towards socialisation than municipalisation. Therefore the Minister of Commerce should be given every chance to redeem its promise. The Government may delay the thing. It is true, that it has to prepare its project. It means tremendous work and a lot of money to provide for the purchase of electrical undertakings all over Bengal. The Finance and Commerce Departments have to work hard for it. But I was surprised that the Calcutta Corporation, instead of going straight for the purchase of this undertaking, by issue of debentures subject to the approval of Government, went on broadcasting the purchase of this by calling for tenders in America and Germany, as if the Corporation of Calcutta has not enough credit or assets to issue debentures for the purchase of this undertaking. Sir, I think those who are behind this question of purchase have been inspired by a good motive, namely, the reduction of the price of electric current. Everybody welcomes this, but let us follow a straightforward course. Let the Calcutta Corporation go and state to the Government its financial position, its efficiency, for controlling the supply of current of a big city like Calcutta, but I am sorry to say in many things have the Corporation so far proved themselves unsuccessful. I advocated for a long time, as many people know, the purchase of the motor buses and to start a Municipal Bus Service as they have in many cities of Europe requiring small outlay of money, and everybody will be pleased to have Bengalee drivers and Bengalee conductors of Corporation buses. I worked the figures out for the benefit of the Corporation and wrote articles on the

subject—the whole scheme costing only sixty to seventy-five lakhs of rupees. The Corporation has the power to raise loan for it, but that scheme did not attract the cityfathers at all. To some of them Calcutta Electric Supply Corporation is capitalism, imperialism, and foreignism, and therefore it must be attacked on the plea that it is exploiting us politically, industrially and financially. The matter before the House is a sort of vote of censure on the Ministry for its connivance at the exploitation and must be rejected.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, the demand for the municipalisation of electric service, at least in Calcutta, has grown very popular in recent times. I have no objection to the inherent principles of municipalisation of such service, but there are extenuating circumstances in this transaction which should be taken note of. I understand that the Corporation do not propose to run the electric service attending to the needs of Calcutta; they may negotiate with a different Company. Then the position comes to this: The Corporation want to change the present arrangement in the interest of the rate-payers of this city. I have full sympathy with the object of the mover in the matter of giving financial relief to the citizens of Calcutta. The Calcutta Electric Supply Corporation are attending to the electric needs of the city with efficiency, and no cause, no occasion has risen which can justify the move as contemplated by the Corporation of Calcutta. But, Sir, the Government have a clear duty to perform in this matter. Their duty does not end in merely saying "No" to the Corporation. The charges for domestic consumption of electricity in the city are generally agreed to be high and it lies with the Government to bring pressure upon the Calcutta Electric Supply Corporation to reduce the rates. The introduction of alternate current with high voltage in the suburbs of the city within the Municipal area has been a source of grave anxiety and inconvenience to the citizens, and it is the duty of the Government to bring about a change in the policy of the Electric Supply Corporation in response to popular demand. I agree that the Calcutta Electric Supply Corporation should not be unjustifiably deprived of their reasonable rates of charges, but I would like to impress upon the Government the fact that the just demands of the citizens should be acceded to by the Electric Supply Corporation, and if the Company fail, Government should intervene in order to enforce compliance with the legitimate popular demands. There should be no hesitation either on the part of Government or on that of the Company to secure this much-needed relief to the citizens of Calcutta.

Mr. SHRISH CHANDRA CHAKRAVERTI: Mr. President, Sir, I must thank my hon'ble friend Mr. Lalit Chandra Das. I, as the only representative of Calcutta in the Upper House, shall be failing in my

duty if I do not record a note of protest against this high-handed and arbitrary action of the Hon'ble Commerce Minister. Sir, the Hon'ble Minister for Commerce and Labour said: "The sanction of the Government is not a matter of routine. In deciding the question, Government have to consider not only the interests of the people of Calcutta, but of the people outside Calcutta who are being supplied with electricity, and as a matter of fact, the interest of the people of Bengal as a whole." He went on to say "Considering the changes brought about by the Act and the clause laid down in the Amending Act of 1910 and looking at the matter from proper perspective, it would appear that the Calcutta Corporation could not acquire the undertaking within the Municipal limits". Sir, it is the most paintul duty of the members of this House to show the utter hollowness of the whole argument. He has taken shelter under the exploded theory that the undertaking being one of combine, the whole cannot be purchased by the Calcutta Corporation which lies within the municipal limits. May I ask if the obtaining of thirteen different licenses for different areas under different terms and conditions by the same supplying company, subject to the date of their having the Calcutta Electric License of 1907 could ever affect the legal rights and privileges of the rate-payers of the city of Calcutta? Should their having subsequent licenses to spread their supply to distant places far away from the Calcutta Municipal limits not rob the people of Calcutta of the legitimate rights exercised in the matter of taking over the undertaking when the time came according to the clear and unambiguous terms of the said Calcutta Electric License? To contend that, would be childish and extremely futile. The Hon'ble Commerce Minister has shown his greatest regard for the findings of the Government Inquiry Committee when he said that it has rejected Dr. Dey's calculation in the matter of working out the cost per unit, and I understand during the debate in the Assembly he failed to prove his case. I would only refer the House to paragraph 120, page 47, Chapter VI, of the report of the Government Enquiry Committee read with Appendix XI, page 138, in which the views of the Committee are stated in full. The following extract from the Appendix is relevant and I would invite the Hon'ble Commerce Minister to give a reply to this. It is written there clause (*f*) on page 138 reads "the provisions contained in the Schedule shall be deemed to be incorporated with and to form part of every license granted under this part and shall apply to undertakings authorised by the license. The license is granted in respect of a specified area of supply and the undertaking mentioned in the sub-section 2 (*d*) (*ii*) and the words 'undertaking authorised by the license' in (*f*) referred to above, make it clear that the undertaking refers to the particular license. If there is more than one license, it necessarily follows that there is more than one undertaking".

It is, therefore, no business of the people of Calcutta to look to any outside interest but their own—and that to the detriment of their own

cause—the neglect of which will involve them in a loss of about Rs. 24 lakhs a year. I must say, it would be doing an act of criminal injustice if the people of this great city were forced to sacrifice their own interest. The Calcutta Corporation has, therefore, every right—legal and moral—to acquire the undertaking, by virtue of which the Company has grown fabulously rich, which fact, again, enables them to pervert and cloud the decision of our own popular Ministers. Is the Hon'ble Minister aware of the fact—and I would request him kindly to enquire into it—that at the time of the construction of the Hooghly Tunnel across the river Ganges, the other end of the Tunnel had to be built on the Sibpore Engineering College land, and that the Principal of the College stoutly opposed any encroachment of, or intrusion upon, his land and that no amount of threat or persuasion could move the Principal to give his consent? The Company could only satisfy him by making a free gift of a luxurious guest-house at a tremendous cost of one lakh of rupees, complete with costly furniture, and all the rest of it. (Shame, shame.) My information is that a huge sum of money was spent by the Company when renewing the Howrah Electric Licence. We would, therefore, give this clear warning to the Hon'ble Ministers that they should be more careful in their advocacy of the cause of the vested interests and, human mind being what it is, people cannot spare them for this absolutely unwarranted and arbitrary advocacy of the cause of the Calcutta Electric Supply Corporation.

The Hon'ble Mr. H. S. SUHRAWARDY: It is a contemptible allegation.

Mr. SHRISH CHANDRA CHAKRAVERTI: What justification has the Minister for allowing the Electric Supply Corporation a further lease for ten years at the cost of the people of Calcutta? Would the Minister deny that when the rate of street-lighting in Calcutta was at the rate of two annas per unit, the rate of street-lighting in Howrah was one anna and six pies. Why should that be when the Company had to construct a huge Tunnel across the Ganges to take current from Calcutta to Howrah? The costs of lighting in the far-away towns of Serampore and Barrackpore are the same as that of Calcutta. Why so? Would the Hon'ble Minister care to enquire? It has been definitely proved by facts and figures by the Editor of the *Commercial Gazette*, in his memorandum to the Enquiry Committee, that, by selling only one-third of the total quantity of units the Company produce to the domestic consumers, they could sell the rest of two-thirds of units to the power-consumers, who are about eighty per cent. foreign jute-mill-owners, at a loss, *i.e.*, much below the actual cost of production.

The Enquiry Committee made some pertinent observations on this aspect of things thus: "It was contended that if the Company are able

to sell High Pressure energy at an average rate of 0·47 anna per unit and still make a profit, the rates to other classes of consumers should be substantially reduced.....We think the Company should consider whether it would not be possible to maintain in statistical form information which could be used on future occasions to prove that the charges made by them for different classes of supply, represented a fair charge for the service obtained from the supplies, and that no particular class of supply was subsidized at the expense of another."

The profit from one-third unit sale has been so large that the Company has been giving sixteen per cent. dividend and maintaining a costly London office and paying about Rs. 40,000 per annum to each of their Directors, and has been able to build up huge funds as reserve, depreciation, obsolescence, and all the rest of it. So, by cleverly mixing up all the undertakings into one gigantic unit they have taken a very long view of the matter, counting the evil days that are ahead and which they shall have to face—as is the case now. This matter of mixing together several undertakings into one and making it unwieldy and prohibitively costly, has been the subject-matter of hair-splitting discussions in the Enquiry Committee, and it is, indeed, most improper for the Hon'ble Minister to raise that question again to defend a poor case, since the findings of the Committee, as quoted above, left the matter at rest once for all. All that the Calcutta Corporation care to recognise is their own legal and legitimate rights given to them by the binding and specific terms of the Calcutta Electric License of 1907, and nothing else. The Supply Company has combined into itself the power and distribution agencies. What is there novel in it? They must have to transfer that portion of both the power and distribution plants, as would be necessary, for the supply of current to the areas within the Calcutta Municipal limits under their licence. Has the Commerce Minister enquired how many times the Supply Corporation have dismantled perfectly new generators at the Cossipore station and other stations in order to increase the capacity of their generating plants at Calcutta, so that they could supply the principal customers, viz., the jute mills at a low cost, which must be lower than the cost of production at which the mills could themselves generate electricity, having got their own steam-power? The Chairman of the Supply Corporation has made no secret in his speeches as to how the Supply Corporation had to suffer loss in order to get their customers, viz., the mill-owners, since the increased efficiency of modern plants have brought down the cost of production immensely.

The question of disintegration cannot, therefore, arise at all under these circumstances. The Hon'ble Minister has said: "To control the generation of electricity on a national basis involved a survey, and Government proposed to have an electrical survey of the whole of the province for the purpose of ascertaining the various sources of electric

power and concentrating it on fewer stations. This would mean co-ordination and not disintegration". Thus, it will take a long time to translate his desire into action. In the first place, look at the loss that the people would suffer to begin with, in the shape of a loss of 24 lakhs of rupees per annum for ten years, which means a loss of about Rs. 2½ crores. If the cost of unit be reduced from 2 annas to 1 anna, then, as a result of strangling the growth and development of small cottage industries, the potential loss would be a sum which would run to about double that amount. While, on the other hand, the granting of sanction to exercise the option of purchase by the Corporation would accelerate and not hinder the comprehensive scheme of public control. On the contrary, the licence, if renewed, would defer for a period of ten years the adoption of any scheme of public control, as has been foreshadowed by the Government letter to the Corporation. Municipalisation would, therefore, help rather than hinder nationalisation. What is the use of undertaking a costly survey which would be frittering away the people's money in wild-goose-chase schemes and to no practical end, meant only for putting the public mind off the track and nothing more?

The Hon'ble Minister has taken the discarded MacGowan Committee's Report of England as sacrosanct, and said: "That in the opinion of the said Committee purchase by Municipalities, far from leading to nationalization, would lead to disintegration and the essential object must be the prevention of splitting up of a comprehensive undertaking by individual local authorities". The result of disintegration would not be to reduce the rate from 2 annas to 1 anna per unit, but to send up the rate and increase it to 6 annas. Therefore, that Committee recommended the suspension by legislation of all existing legal rights in respect of such distribution by local bodies. So, by a simple stroke of pen the Hon'ble Minister dispenses with the legal and rightful claims of the citizens of Calcutta. We here are not bound to obey the McGowan Committee's report, whatever worth it might have. Does he know that that Committee's recommendations have been thrown out, and that the new Electricity Bill, that has been brought before the British Parliament, takes over the absolute control of all electric undertakings, big or small, with the sole national object of cheapening the current and making electric supply more efficient?

As regards the tender called by the Corporation, the Hon'ble Minister has said that it was absolutely worthless and "childish". Why? Because, says the Minister, "there was no arrangement in it for the acquisition of a power-house. Were they going to purchase one of the three power-houses of the Electric Supply Corporation? No provision has been made in the tender for such a purpose, nor did the Corporation seem to know the value of such power-houses. It means that for five years they would not be able to supply light, and this was a risk which the Minister was not prepared to undertake."

Mr. KADER BAKSH: On a point of information, Sir. May I know when the hon'ble member is going to finish his speech, as it is time that we adjourned for prayer?

Mr. SHRISH CHANDRA CHAKRAVERTI: I have nearly finished, Sir.

The Calcutta Electric Licence specifically mentions that the transfer by purchase should include the power-house and the distribution-system entirely, and the value should be assessed by an arbitration——

(At this stage the member reached his time-limit.)

Mr. PRESIDENT: You may have one minute more to finish your speech, Mr. Chakraverti.

Mr. SHRISH CHANDRA CHAKRAVERTI: I should be grateful if you could permit me five minutes more after prayer to finish my speech.

The Hon'ble Mr. H. S. SUHRAWARDY: If the hon'ble member is the sole member of the Municipal Calcutta in this House, I would prefer to hear what he has got to say about this matter. If it suits you, Sir, perhaps he might be allowed to finish his speech.

Mr. PRESIDENT: If that be the sense of the House, I would give him five minutes more.

(The sense of the House was in favour of Mr. Chakraverti continuing).

Mr. PRESIDENT: Mr. Chakraverti, you may continue your speech for five minutes more.

Mr. SHRISH CHANDRA CHAKRAVERTI: The Electric Supply Corporation are bound to give that portion of their power-house which is required for supply of current to the area within the Calcutta Municipal limits. If they have thrown away as scrap their small plants simply to make them more huge and costly, it is no concern of the Corporation to look to that. A Corporation which has an income of over Rs. 3 crores can certainly purchase an electric concern in the best interests of the people. Does the Hon'ble Minister know that when the Talla generating plant was started, the biggest Electrical Manufacturers of England, Messrs. Parson & Co., supplied the Calcutta Corporation with two big turbo-generators within three months and not five years as the Hon'ble Minister wants us to believe?

It is a matter of great shame for Bengal that when all other provinces are fast nationalising their public utility concerns, we shall allow the foreign capitalists to exploit the people of this province ruthlessly. Has the Hon'ble Minister any knowledge of the fact that the Government of Mysore reduced the charge of electricity to only half an anna per unit for domestic purposes and half an anna for raising water from wells and farm work and that not by Government bounty? Would the Hon'ble Finance Minister who is presenting a deficit budget, explain why he is not taking advantage of an annual sum of Rs. 24 lakhs which he could easily utilise for nation-building purposes? What is the motive behind this exhibition of bankruptcy in the use of ordinary common sense? In every civilised country, the supply of electric energy is made cheap. Look at Bombay, the United Provinces, the Punjab, Madras and lately Bihar. The Hon'ble Finance Minister of Bombay has said "there is no reason why the State should not nationalise these public utility activities and appropriate the profits for the good of the community as a whole. There is no valid reason why the profits of these public utility activities should not return to the pockets of the public as a whole through its accredited agency, the Government".

Will the Hon'ble Minister please explain what was the reason of the Government's withholding the sanction for the comprehensive electricity-generating scheme of Dr. B. N. Dey, the Chief Engineer of the Corporation of Calcutta, submitted to them in 1930 and submitted as well before well-known electrical engineers of the United Kingdom, Germany and United States of America, who supported the scheme as quite practicable. The Government having refused any sanction until now, the Corporation was obliged to start their own supply of electricity in a smaller scale than the original one. They are now getting considerable portion of their own supply at a cost much less than a third of an anna per unit.

Now the Corporation is adopting a resolution modifying their previous one by which they are prepared to accept in principle that should the Government come forward with their projected scheme of nationalisation, the Corporation should be prepared to merge their undertakings with the Government undertakings with effect from the date of operation and working of such undertaking. Would the Hon'ble Minister place before the House what further objection they could have in allowing sanction to the election by the Corporation of Calcutta to purchase such part of the electrical undertaking of the Calcutta Electric Supply Corporation as lies within the municipal limits of Calcutta in pursuance of the power vested under the Calcutta Electric License of 1907? We hope that the Government will at last come to their senses, to the enormity and volume of opposition which they have to face in ignoring the most legitimate and essential rights of the citizens of Calcutta.

Mr. NAZIRUDDIN AHMAD: Mr. President, Sir, on reading the resolution and hearing the speeches, I find that the question before the House is one of choice between two Corporations—whether the Calcutta Electric Supply Corporation will go on supplying electricity or the Calcutta Corporation will step into its shoes. There is no other question before the House. Between these two Corporations, as such, there is nothing to choose. A distinguished jurist once said that a Corporation has no soul, and another distinguished jurist amplified it by saying that a Corporation has no soul to be damned and no body to be kicked. Between these two soul-less Corporations, the question is, which Corporation should supply electricity for the benefit of the people of Calcutta.

The resolution confines itself to an objection to the refusal by the Government to accord sanction to the Calcutta Corporation to purchase the electrical undertakings. It is this refusal which is objected to and we are to decide whether this refusal was wrong. On the merits, we do not know what the tender on behalf of the Calcutta Corporation was like; what were the terms; whether the premises on which the tender was based were sound; whether it disclosed any practicable scheme; in other words, whether the Calcutta Corporation was really in a position to supply electricity on the alleged tender at rates cheaper than those charged by the Calcutta Electric Supply Corporation. No evidence or material has been placed before the House which would enable us to properly and fully appreciate the situation.

So far as we can judge from the performances of the Calcutta Corporation, we know that it is pre-eminently a dilatory body. Things and considerations which could be finished in days or weeks, take months and years in the Calcutta Corporation. So far as its executive side is concerned, the public has no faith in it and it has lost any sense of responsibility. It is run by an oligarchy and it imposes the tyranny of the majority. It is famous for its mismanagement and its favouritism, and there are many underhand things (Question, question!) and dark transactions which happen behind the scenes which have become notorious and are now beyond question—to speak of which in plain language would be beneath the dignity of the House.

The question is whether, in the face of this brilliant and uniform record of the Calcutta Corporation, this House should blindly pass a vote of confidence on its estimate. Now, Sir, if the rates charged by the Calcutta Electric Supply Corporation are higher than what they ought to be, surely the remedy lies in applying to the Government and the Government has ample powers under the Act and the Rules to step in and compel the Supply Corporation to reduce the same, which the Government will certainly do if it is justified on a thorough examination of the facts and factors which go to determine the rates. Then, Sir, the entire case for the Calcutta Corporation is based on an alleged

estimate made by one Dr. B. N. Dey, and it is said that this Dr. B. N. Dey is a great expert. Sir, so far, however, as we know of this Dr. B. N. Dey, he became famous several years ago when his appointment in the Calcutta Corporation came into prominence. It was then said that he possessed very high qualifications, technical as well as academic. But the House will remember that at that time there was a great sensation when a certain well-informed member of the Corporation definitely alleged that this gentleman did not possess those academic or technical qualifications, which he had claimed, and challenged him to produce evidence of those qualifications in the shape of certificates or other suitable documents and he failed or omitted to accept the challenge.

Mr. PRESIDENT: Order, order. Reference to individuals who are not present in the House should be avoided as far as possible.

Mr. SHRISH CHANDRA CHAKRAVERTI: That is not very relevant either.

Mr. NAZIRUDDIN AHMAD: I bow down to your ruling, Sir. I will not make any further reference to that matter. But I submit that the qualifications of Dr. B. N. Dey, on whose name alone the case for the Calcutta Corporation is based, is relevant. We do not, at any rate, know whether the technical qualifications of this gentleman are quite up to the mark, and I doubt if the House will accept his estimate without examination. One of the speakers has said that the Calcutta Electric Supply Corporation is supplying some amount of danger-element by introducing alternating current in the town. I submit that the tendency in the modern world is towards replacement of direct current by alternating current. It is of high voltage and certainly dangerous, but it is more efficient and works cheaper than direct current specially when it is distributed in a wide area. So, if it is a question of reduction of rates, it must be through the introduction of a complete system of alternating current, and though there are dangers, there are also devices and means by which this danger could be minimised, and it is a question of the training of the people. There is no doubt that in course of time people will get accustomed to this and avoid all danger as has been the case everywhere else. In these circumstances I submit that the Calcutta Corporation has not tendered before this House any evidence of the sufficiency or soundness of the scheme which they submitted before Government. A mere allegation or a verbal claim that the scheme was sound, however strongly and forcefully repeated in this House, cannot be accepted by it without any question, and when it is a question of placing the entire happiness and convenience of the people and large business interests of the town in the hands of the Calcutta Corporation, this House should think several times before agreeing to

the same. With these few words, Sir, I submit that the motion should be thrown out.

Mr. HUMAYUN KABIR: Mr. President, Sir, I should first of all like to offer one or two remarks on the speech which has just been delivered by an hon'ble member opposite, and I would only remind him that we are not discussing here to-day the efficiency or otherwise of the Calcutta Corporation directly, and certainly not the question of competence or the possession of degrees or otherwise of the officers of that Corporation. I would agree with him that the Calcutta Corporation leaves much room for improvement, and that there is in the minds of the public, a general feeling that the work of the Corporation is not done with proper efficiency. But, I submit that the question which we have to discuss to-day is on a different plane and should be approached from an entirely different angle. It is a question as to whether a public utility concern should be left in the control of a private Company for the profit of private individuals, or of a private limited company, or whether such public utility concerns should be utilised for the welfare and benefit and advantage of the community at large.

It is not only the question of profit or benefit that arises here. There are other aspects of the question also. The Calcutta Electric Supply Corporation and such other public utility concerns must, in the nature of the case, be monopolistic bodies. We cannot have two electric supply corporations running side by side within the same area, just as we cannot have two Transport Boards. It is agreed on all hands to-day that we cannot leave the control over such monopolistic public utility concerns in the hands of a Company which may be swayed by considerations which are not the consideration of the interests of the public at large. I therefore submit that the question should be approached to-day from this point of view. This is the sole consideration: do we or do we not want that the public utility concerns should be taken over by the public, that they should be managed from the point of view of the advantage of the public and that if any profits accrue from such concerns, these profits should be utilised in giving them back to the public by way of rebates, reductions, bonuses or in hundreds of other ways by investing them in social welfare work? Whether these moneys should come back to the public—that is the question that we have to discuss here to-day, and not any questions about the competence or possession of a degrees or otherwise by officers of the Corporation or of any other institution.

I would, Sir, like now to place before the House the facts of the case as briefly as I may. The Calcutta Electric Supply Corporation was organised about more than twenty years ago, and they were given a licence for twenty-one years, with this option that at the end of that period, the Corporation, and failing the Corporation, the Government,

would have the option of purchasing it and running it in the interests of the public. That day has arrived to-day. And if to-day the advantage of that clause is not taken, this question cannot be renewed for ten years, and this is the reason why this question has been brought here to-day in the form of an address to His Excellency the Governor.

I admit, Sir, that I do not like the form in which that address is couched. I have some misgivings in my mind as to whether we should present an address to His Excellency for doing a thing which is within the competence and primarily a concern of his Council of Ministers. Therefore the form of the address I do not like. This may give an opportunity, may create a precedent for the intervention by His Excellency in the day-to-day activities of the Government of the day. From that point of view I do not like the form of the address. But, nevertheless, I would submit that since this House has no other way of expressing its opinion on this point, there is no option left for us but to do so. And this resolution, if passed, will be only an expression of opinion of this Council, and since the "Governor" generally means the Governor with his Council of Ministers, this expression of opinion by this House will be considered by the Council of Ministers and they will take decisions, and therefore that danger, which has been suggested by some members is not so grave as at first sight it seems to be. That is one consideration which I would like the members of this House to remember.

In the letter in which Government refused sanction to the proposals of the Corporation to purchase the undertaking of the Electric Supply Corporation, the following grounds among others are mentioned. One was about the legality of the notice, but the Government itself did not press that point and I take it that Government did not do so because they were not sure of their own ground. The next question is about the public interest. There was a sentence, a rather queer and an illogical sentence—if I may be permitted to say so,—in the letter which Government in its wisdom thought fit to send to the Corporation. It runs that Government are not convinced that the transferance of control of electricity supply and the management of the electricity affairs of this city by the public would be to the benefit of the public at large. I fail to understand the logic or meaning of a statement like that. It is admitted that if the electrical undertakings of the city are taken over by a public utility concern, there will be reduction in the rates, and this reduction will ultimately accrue to the extent of Rs. 24 lakhs. I put it to Government to explain in what way this benefit to the extent of Rs. 24 lakhs to the rate-payers of Calcutta is not to the public interest. I put it to Government to answer this question whether this gain to the poor rate-payers of the town is not a matter of public interest?

Then, again, there was a reference to the Government's proposed nationalisation scheme, a proposal which we shall welcome when it comes before us in a concrete form. If the Government are prepared to say that they are considering the establishment of a National Electricity Board and this Electricity Board will take over the question of supplying electrical energy to different parts of the province, I am sure, members of all parties of this House will welcome it. But it is precisely because Government are doing nothing of the kind that this proposal of the Corporation comes in. I understand there is a proposal in the Corporation itself by which it is prepared to give up its rights and to ask the Government to take over the business of the Calcutta Electric Supply Corporation to be run by Government itself. If that be the case, the argument advanced by the Hon'ble Minister for Commerce has no ground to stand upon.

Then there is the fourth point which is raised in the letter addressed by Government to the Corporation, and that is the question of breaking up or dismembering the Electric Supply Corporation. I submit that this question does not arise. As has been pointed out by Mr. Chakraverti, there are thirteen different licenses, for thirteen different areas, and these licenses are under different terms and conditions and they run over different periods. If, therefore, the Government think of bringing up the question of dismemberment as a serious argument, I think Government themselves can never take over the Electric Supply Corporation or its concern because these licenses will never coincide. Hence from year to year this sort of management by a private company, this exploitation by a private company of the interests of the public will go on.

It has been stated and has been thoroughly proved on the floor of this House from the figures of the Calcutta Electric Supply Corporation itself, that it is possible to supply energy to the consumers of Calcutta at a rate lower than what is prevalent to-day. To-day the rate is two annas, and only a short time ago it was the declared policy of the Electric Supply Corporation that electrical energy could not be supplied for less than three annas a unit. As soon as pressure was put upon the Company, the impossible happened, and what was impossible two years ago, has become possible to-day. If further pressure is put and if Government is prepared to take over from the Electric Supply Corporation the management of its concern and distribution of electrical energy to the citizens of Calcutta, the further impossibility will happen. We shall find that the rate will be reduced not only from two annas to one anna as suggested by the Calcutta Corporation, but perhaps to a still lower figure. We also find that the higher pressure energy is supplied at less than ½ anna a unit by the Electric Supply Corporation, which is running a business concern at a profit. This proves that it is possible to supply electrical energy at ½ anna a unit and yet make a profit out of it——

The Hon'ble Mr. H. S. SUHRAWARDY: Not high pressure but high tension.

Mr. HUMAYUN KABIR: If it be a case of low tension in the case of domestic supply, as the Hon'ble Commerce Minister wants to emphasise, let the prices be doubled, and even then we will be content. What I want to emphasise is that rates will be scaled down as soon as further pressure is put upon the Corporation.

There is further proof to show that it is possible to supply energy at a rate lower than what actually prevails to-day. If we look at the figures of the balance sheet, we find that the remuneration of Directors in London are in the region of over Rs. 30,000 a year, and a costly establishment is kept there only to distribute the dividends. If we look to the plants machinery and other assets of the Company, we find that the total comes to nearly £6 million pounds, whereas the capital including shares, debentures and loans covers £2 million pounds. All this was built up out of the surplus profits of the Company That there is very great profit is further proved if we look into the dividends which were declared by the Company from time to time. In 1915 the dividends declared by the Corporation was about 9 per cent. In 1934 it jumped up almost to 15 or 16 per cent., and I submit, Sir, that if in these days, a Corporation can give a dividend of 15 or 16 per cent., that Corporation is making a profit which, in the interest of the public, it has no right to make, particularly when it deals with a commodity which is not a luxury and which all citizens from the richest to the poorest require (Hear! Hear;) and it is necessary not only for our private purposes but also for the development of industries in this country. In the budget speech of the Hon'ble Finance Minister, there was a reference to the nationalisation of electricity, and it was said that Government were seriously thinking whether the supply of electrical energy for the whole of the province could not be controlled by the Government, in order to encourage the growth of small scale industry all over the province. Here, I submit, is the first test of the Government's *bona fides*. If the Government are serious about it, if they want to encourage national industries, they can give a concrete proof of their intentions by taking over the Calcutta Electric Supply Corporation and making it possible to supply energy in Calcutta at a rate cheaper than what is prevalent to-day. From all these considerations, it is essential that this question should be reopened and that Government must make up their mind whether they intend to prove their *bona fides* or not, and I submit that by their action will they be judged and not by their professions.

Mr. J. McFARLANE: Mr. President, Sir, I oppose the motion before the House. I am of the opinion that Government's refusal to sanction the Calcutta Corporation taking over part of the Calcutta

Electric Supply Corporation undertaking is definitely in the best interests of the people of Calcutta.

I have studied the general terms and conditions for the purchase of the electrical undertaking within the municipal limits—which were published for the information of possible tenderers in a supplement to the *Calcutta Municipal Gazette* of 9th October last and to me the scheme appears to be a most ill-conceived and incomplete one. These terms and conditions seem to have been framed and set out in such a way as to mislead not only possible tenderers but the rate-payers and the public generally and I fear that has been the effect on many of the general public who have not considered the matter closely. The figures of the working cost quoted in the general terms and conditions are similar to those submitted by the Calcutta Corporation's Chief Engineer when giving evidence before the Advisory Committee appointed early in 1936 to enquire into the charges for electrical energy levied by the Calcutta Electric Supply Corporation. That Advisory Committee, a well-informed and responsible body under the chairmanship of Sir Nalini Ranjan Chatterji rejected entirely the proposal made by the Calcutta Corporation as being wholly impracticable and not based on facts.

It is apparent to any one who is prepared to consider the matter from a practical and unbiased point of view that the Calcutta Corporation or any agent appointed by them could not hope to supply energy to consumers within the Calcutta Municipal area at the rates provided for in the Corporation scheme. Their figures for the amount of energy to be supplied are incorrect. Their figures for the capital cost of this scheme are likewise incorrect, and there appears to be a totally inadequate provision for distribution costs. It follows therefore that since the estimates are on an incorrect basis, the conclusions as to rates are absolutely misleading.

Despite their specious promises of current for domestic purposes at one anna per unit, if the Calcutta Municipal area were supplied by a separate undertaking, the inevtitable result would be that the rates which would have to be charged for electricity in that area would be higher than is at present the case. Perhaps the Calcutta Corporation would not mind that, but no doubt the rate-payers would, and then what of the residents of areas outside Calcutta, such as Howrah, Serampore, Barnagore, Dum Dum and other municipalities up and down the river? Their rates also would have to be increased if the Calcutta area were separated from the remainder. The consumers in those areas are entitled to the consideration which has already been given by Government. I think, the load provided by the mills and other industrial concerns situated outside the municipal limits must, to an appreciable extent, be responsible for the low rates we, in Calcutta, pay for our supplies.

The Hon'ble Minister for Commerce and Labour has indicated that he proposes to hold an electrical survey of the province for the purpose of ascertaining the lines of development to be followed. He has not yet given us much idea of what is in his mind, although I understand some reference to a Grid scheme has been made. But his conclusion is incontestible that dismemberment of existing undertakings is not in the public interest. In the United Kingdom and elsewhere in the world, development in recent years has been on the lines of amalgamation as opposed to dismemberment. Amalgamation or co-ordination of existing sources of supply and distribution, when properly conducted, promotes efficiency and tends towards reduction in charges for electricity. A small undertaking cannot hope to generate and distribute energy at such low rates as can a large undertaking. An undertaking covering an wide area of supply is in a position to cater for consumers having widely divergent needs and thus operates on excellent load and diversity factors. This means that the average cost per unit generated and sold is decreased to the benefit of all concerned. Further, the economical operation of large generating units and the fact that overhead expenses are spread over a considerable number of consumers, are further points in favour of big undertakings as opposed to small undertakings.

I hold no brief for the Calcutta Electric Supply Corporation, and I am not here to defend it. I am speaking as an ordinary consumer and a rate-payer and incidentally as a consumer who would much like to see his electricity bills lower than they are. But I cannot ignore the fact that we in Calcutta receive our electricity at rates lower than any other city in India, and I believe these rates are amongst the lowest in the world. We in Calcutta pay 2 annas; Bombay pays from 3 to 3½ annas; Madras pays 4 annas; and in view of this I regard it as fantastic to describe the Calcutta Electric Supply Corporation, as it has been described, as a profiteering concern. We have here in Calcutta a thoroughly well organized and efficiently run undertaking from which we get our supplies of current at a reasonable rate, and it is a reliable supply, and I think we should take no steps which may disturb that state of affairs.

Sir, I oppose the motion.

Mr. NARESH NATH MOOKERJEE: Sir, I had no intention of intervening in the debate, but from certain speeches that have been made in this House, there appears to be some misunderstanding as to the proposition put forward by the Corporation. I feel, Sir, that some of the hon'ble members of this House feel that it is the intention of the Calcutta Corporation to take up this undertaking and mismanage it and that the eventual result of this transfer would mean a black-out almost every evening (Laughter.) Sir, I can assure my colleagues in

this House that the intention of the Corporation was really to secure cheap electricity for the people of Calcutta. Sir, the intention of the Corporation is very clear on this matter. They started agitating for cheap domestic electricity from the year 1930, and they persisted in their effort till it attracted the notice of the Government, and in 1934 the past Government were good enough to accord sanction of an enquiry committee to go into this question. The then conservative Government which was not a national Government as you know, accorded this sanction. The Enquiry Committee held that the rate charged for domestic current was absurd, and that a reasonable rate even then would be 2 annas, and also stipulated that there could be further reductions effected in the rate gradually. Therefore, Sir, I submit that even that Government found that the rates were too high, and that there was considerable room for reducing that rate. It will be very clear from the report itself of that Enquiry Committee that there was ample evidence put before the Committee to show that the rate was abnormally high, and that there was ample room for reduction. Therefore, Sir, the question cannot be argued now that we are getting a very reasonably low rate. Sir, the city of Calcutta is a very large consumer of domestic electricity, and I maintain that we cannot compare the rates that we are entitled to get with rates that are prevailing in Madras or any other small city of India. We ought to really draw comparisons with larger cities of Europe and America where the electricity is nationalized, and the average rate is about 1 penny per unit. Sir, I shall not dilate on this point any further. Most of my points have been covered by my friend Mr. Humayun Kabir, and I think he has very ably exposed all the points that I meant to take up. All I want to put forward, Sir, is this that the Government in refusing sanction to the city of Calcutta to purchase this undertaking which is their inherent right, have delayed for ten years all chances of our being able to secure any relief to the rate-payers of Calcutta in the way of obtaining cheap domestic electricity. Secondly, Sir, in refusing the sanction they have practically admitted the principle of exploitation. They have openly espoused the cause of the Company and refused to dismember this Corporation which is run by monopolists who have really not behaved as a public utility company, but have behaved like the usual British monopoly companies whose sole objective is to rob the people and distribute large dividends to their British share-holders. Sir, I maintain that the efforts of the Calcutta Corporation were not selfish. There was no question of the Calcutta Corporation trying to make profits out of this undertaking. Their intention was clear. The idea was to give relief to the people of Calcutta. Sir, we have now no other alternative left but to appeal to His Excellency the Governor to intervene in this matter, because all other avenues of being able to make ourselves heard have been denied to us, and, Sir, we hope that he will

be pleased to give us at least some consideration in this matter by requesting the Cabinet to reconsider their decision.

Mr. KADER BAKSH: Mr. President, Sir, I had no desire to take any part in the discussion, because we are not at all interested vitally with regard to the electricity consumption in Calcutta. But there is a scheme for extending this industry throughout the whole province, so indirectly we are interested. Now, Sir, I am taking part only because of some utterances made by my hon'ble friend the mover of the resolution, Mr. Das. Sir, nobody can deny the right of the people to nationalize any foreign industry. It is an action which is noble in spirit and in ideas. Indianization of superior services in the Railway Department has been spoken of very ably by our own man Sir Abdul Halim Ghuznavi in the Central Assembly. Now, Sir, we also have got full sympathy towards any scheme calculated to Indianize any industry and any enterprise, but now, Sir, before we think over that, we must also think that any institution which is run by us and which is not nationalized should be nationalized as soon as possible, and, Sir, any hindrance put towards that should be discouraged and, it is unfortunate that we always forget, always manage to forget that object, but now, Sir, I should be somewhat more clear. You remember when there was an attempt or rather when there was only a talk to bring about some changes in the constitution of the Calcutta Corporation only a few months ago, there was a cry heard from beyond the seas raised by one of the most important friends of India and one of the most prominent men of Bengal "I will start such an agitation throughout the length and breadth of this country, that will make the life of the man miserable and the like of which was never experienced by him in his life time." These are statements which bring terror to our heart. The hon'ble mover of the motion has said that he resents any statement made by any people to the effect that the present Coalition Government is a Muslim Government and the Corporation a Hindu institution. Certainly, it would have been very much better, very much desirable had there not been any such element in the latter. Now, Sir, the Corporation, nobody can deny consistently with his conscience, is purely a Hindu Government. I have some experience at least, extending to the distant days of the Swadeshi movement of 1924, when I was a member of the Council, and I was a staunch Congressman. My experience says that it is primarily and purely Hindu institution. Its doors have been shut against Mussalmans, and they have not been allowed any room in that institution.

Mr. NARESH NATH MOOKERJEE: On a point of order, Sir. The resolution——

Mr. PRESIDENT: I hope the hon'ble member will confine himself to the resolution.

Mr. SHRISH CHANDRA CHAKRAVERTI: The question be now put.

Mr. KADER BAKSH: Only one word, Sir. It is not my intention and I cannot be a party to any idea by which the people may not get electricity at the lowest rate. On the other hand, I am for it. Why 1 anna? 2 pice. Everybody would desire that it should be brought to the lowest possible rate, but at the same time it should not be actuated by anything which is not purely Swadeshi and purely national. With this few words and with an appeal that the Corporation be nationalised early, I resume my seat.

Mr. SHRISH CHANDRA CHAKRAVERTI: Sir, I move that the question be now put.

Khan Bahadur ATAUR RAHMAN: Sir, I think the subject has been discussed threadbare from all sides, so there is nothing left for me to discuss or talk. I will only speak a few words. Firstly, I cannot see eye to eye with the Government in their action. It seems to me that they have given a curt reply without much consideration of the fact and with a hoax that the electricity will be nationalised. Had it been definitely stated by Government that they would be taking it up for nationalization within a short time, of course, then there would not have been much talk about it. Otherwise, as rate-payers, I think, we cannot welcome the decision of the Government in allowing foreigners to exploit this country by drawing a huge amount of money from the rate-payers (Hear, Hear). If the Government is contemplating to nationalise, why should they give such a curt reply refusing to comply with the request of the Corporation without scrutinizing the proposal made by them and withholding renewal for ten years? The Corporation may be wrong, but Government may put it right, and sanction the proposal instead of turning it down. I believe that there is something behind the *purdah* in the matter. (Hear, Hear.) We are not satisfied with the action of Government, although much has been talked about Dr. B. N. Dey or somebody whoever he is, who is supposed to be making a very irrational proposal, but we are not quite satisfied from what we have learned from the discussions in the Lower House and in the newspapers, we would like to be satisfied why the Government rejected such a rational proposal of the Corporation for reducing the electric rate from 2 annas to 1 anna for the consumers. If we get such a rate from the Government or if Government guarantee that the Electric Supply Company will give such a rate, we would certainly have no

objection. Let the Chairman of the present Company take 20 thousand rupees a month, or let him fly ten times to India, we have nothing to do with it. The next thing is that by the Government support the Electric Corporation seems to be taking some peremptory actions against the Corporation. Recently I saw in papers that they have issued some notice that unless the Calcutta Corporation rectify or do something within seven days, they will stop electric supply. Is it not a vindictive attitude of the Corporation, and why they did it? I mean the Electric Corporation, why they did so? Possibly they know that they have got the backing of the Government. These are the few words which I wished to say and if we are satisfied, of course we shall support the Government; otherwise we cannot but oppose the Government in the motion.

Mr. SHRISH CHANDRA CHAKRAVERTI: The question be now put.

Mr. PRESIDENT: The question before the House is that the question be now put.

The question was agreed to.

The Hon'ble Mr. H. S. SUHRAWARDY: I feel, Sir, that the resolution as framed has a certain degree of constitutional weakness. His Excellency the Governor has nothing really to do with the subject matter of the resolution. It does not encroach on his prerogatives, on his discretion or his individual judgment but I consented to the resolution being moved in its present form and did not raise any objection because I welcomed the new attitude of the Congress Party in appealing to the Governor against the Ministry. (Hear, Hear.) I further wanted an opportunity to explain the situation to the hon'ble members of this House in fuller details than I could do in another place. I sympathise with the desire of the hon'ble members of this House to get something profitable out of nothing. I sympathise with their desire to somehow or other—if they can manage it,—get the rates lowered, and it seems to me that this is largely responsible for the attitude of the Opposition to the subject matter of the resolution. It is governed, if I may say so, by avidity. This constant repetition seems to have acted as a charm and has given the general impression that if the sanction was given, the rates would have been reduced. There is no justification whatever for such a view. I must again confess that, although in another place I warned the members not to speak on a subject which they had not studied properly, I find the same degree of ignorance prevailing among the members of this House on the opposite benches.

Mr. NARENDRA CHANDRA DATTA: Question.

The Hon'ble Mr. H. S. SUHRAWARDY: It is not a hasty decision of Government: the decision of Government has been arrived at after a great deal of thought and after considering all the various aspects of electricity undertakings. We have really arrived at this decision in the interests of the people of Calcutta, in the interests of the people outside the Calcutta Municipal area, who are also served by the Calcutta Electric Supply Corporation, in the interests of the people of Bengal, and in the interests of electricity development. I propose to satisfy the members of the House that every single statement that I am making is founded on reason and knowledge.

Now, I visualize, Sir, electricity development in this province in this way: a number of large, consolidated, efficient, economic undertakings connected with one other in a grid system, if possible,—the entire province intersected with electricity lines, cheap electricity at the doors of the industrialists,—small, cottage, or large—cheap electricity for the agriculturists, and public control leading to ultimate nationalization of electricity undertakings. This is the definite policy of Government, and I hope that before we are called upon to lay down the reins of office, we shall have not only laid down and embarked upon this electricity policy but shall have gone further and fulfilled in part the objects in view. For this purpose, as I have stated elsewhere, a survey, in order to gauge the potentialities of our province as regards the supply of cheap electricity is necessary. Without that survey, it is useless and futile to talk about electric power and about putting up efficient plants in various parts of the province. In the mean time, we propose to proceed with the policy of progressive public control, leading to ultimate nationalization of electricity undertakings. Let there be no doubt with regard to this. As to how we propose to nationalize electricity undertakings must depend on the advice of our electrical experts and on the manner in which electricity undertakings in other parts of the world have been nationalized. Until we get this advice, and we propose to get this advice from the best experts, it would be premature for Government to state the manner in which Government propose to nationalize electricity undertakings, but I can give this assurance to this House that, so long as this Government is in power, it will place this policy before it, and it will also use every possible source of knowledge and all resources in order to nationalize electricity undertakings.

Mr. SHRISH CHANDRA CHAKRAVERTI: Until the fifth year is over.

The Hon'ble Mr. H. S. SUHRAWARDY: Now, the decision that Government has arrived at in regard to the matter under discussion must be judged by the policy which we have laid down, and I maintain that if we give sanction to the Corporation of Calcutta to exercise

the option, it would be going against this policy, and it would lead not to nationalization as an eventuality, but to the breaking up of electricity undertakings into small, inefficient one which would not be worthwhile to nationalize at all.

Mr. HUMAYUN KABIR: Wonderful logic!

The Hon'ble Mr. H. S. SUHRAWARDY: It is not a question of logic; it is a question of knowledge (Laughter.) I cannot expect the member opposite to know what he is talking about, but this is really a technical matter, and I do not know whether the member opposite had, at any time in his life, any scientific training in this line in order to be able to understand it.

However, I shall proceed. I shall deal with the speech of the hon'ble mover first, for his speech was founded on many inaccuracies which show that he did not know what he was talking about.

Mr. LALIT CHANDRA DAS: Question!

The Hon'ble Mr. H. S. SUHRAWARDY: In the first place, the hon'ble member stated—and I noted it down—that the conclusion arrived at in the report of 1936 was that the rate could be reduced to 1 anna 6 pies per unit, and more later. Now, that report does not say anything of the kind, and I would only ask the hon'ble member to refer to that report once more before he presses his point. I quite understand that there are large number of persons who have no knowledge about things electrical, and I also know that there are persons who for various reasons have been trying to mislead the people of Calcutta. The hollowness of their pretensions has been exposed by the Committee of Inquiry of 1936.

Mr. NARESH NATH MOOKERJEE: On a point of information, Sir——

Mr. PRESIDENT: Order, order. When the hon'ble member was himself interrupted, no courtesy was shown to the interruptor. The Hon'ble Mr. Suhrawardy should be allowed to proceed without interruption.

The Hon'ble Mr. H. S. SUHRAWARDY: It is rather early in the day, without placing before Government, and figures other than those which were placed before the Inquiry Committee of 1936 and which were rejected, to call for a revision at this stage. When the time for revision comes—and I know that the time for revision will come inasmuch as electricity undertaking will go on increasing in

efficiency and in size—when the time for revision will come—Government will take steps to see that the rates are proper and not unduly high. Khan Bahadur Ataur Rahman has said that it does not matter how much money flies from this country to another if the rate is reduced to 1 anna per unit. Now, that is the sort of remark which shows that Khan Bahadur Ataur Rahman is led away by that "one anna" phrase rather than by the theory which underlies the principle of lowering electricity rates. If electricity rates can be lowered to less than 1 anna per unit while giving the necessary amount of dividend to the company—the other profits going to benefit the people—there is no reason why the rates should not be lowered to less than 1 anna per unit, and I do not accept his suggestion that if we get electricity at 1 anna per unit, it does not matter how much money in the shape of profits flies from this country to another. It is the duty of Government to keep a constant watch on the rates of the various electricity undertaking to see that the people get electricity at as cheap a rate as possible, and that the dividends of the various companies are not too high.

It is no use, Sir, referring to the year 1915, or to a period before this Government came into power. You may only refer to such instances as have taken place under the ægis of this Government. Now, in 1936, exactly the same figures, as are now put forward to show, or to prove, or to attempt to prove, that the rates could be lowered to 1 anna per unit, were placed before the Enquiry Committee. It was only in 1936 that exactly the same figures were placed by the same pretended experts and this is what the Committee says with regard to them. The Committee considered thoroughly all the items. I shall refer the hon'ble members to page 53 of the Government Report. There it is stated—

"We have already stated our reasons why we are unable to accept the results obtained in other undertakings in India, not comparable with that of the Company, as a basis on which to judge the Company's operations and it is unnecessary for us to comment further on this question." It was attempted to compare these undertakings with others in certain other parts of India. Then again, these experts suggested a certain degree of depreciation. The Committee said—"We consider the provision for depreciation suggested by the Calcutta Corporation would not be adequate."

It goes on and on and demolishes every single statement made by the Calcutta Corporation and says "We are therefore obliged to reject the proposals." Now this is the report of a Committee of Enquiry presided over by Sir Nalini Ranjan Chatterjee only in 1936 and now we have been called upon—it is really an attempt to bully the Government and stampede it, if possible—by the mover to accept that figure as sacrosanct which was suggested and turned down by the Committee,

and on the basis of it he wants us to agree to the fact that the rate can be reduced to 1 anna. One thing more, and it is of the greatest importance—all the figures that were given even by the Corporation were on the basis of what should be the rates of the Calcutta Electric Supply Company taking the undertaking as a whole and not limited merely, to the jurisdiction of the Calcutta Corporation. An entire undertaking implies efficiency in various matters and economy in various ways. When the figures supplied by the Corporation were rejected on the basis of the entire undertaking, we are being called upon to accept the self-same figures on the basis of the dismembered undertaking. It is absolutely obvious to anybody who really wishes to direct a little bit of intelligence to this question that the manner in which it has been attempted to stampede the Government is fallacious.

The hon'ble mover again stated, and many others have joined with him, that Government are depriving the Calcutta Corporation of its legal rights inasmuch as in the 1907 license that was drafted after the Act of 1903, permission was given to the Calcutta Corporation—no actual permission was given because it was subject to the sanction of Government—to exercise the option of purchase within the limits of the municipal jurisdiction. In 1910, that point of view was altered and the 1910 Act states that no local body can purchase the undertaking within its own jurisdiction if the operation of the undertaking extends beyond that jurisdiction. Now, since that time till now in all parts of the world the principle underlying the 1910 Act has been found to be correct. That Act embodies the principle that larger undertakings, particularly electricity undertakings, ought not to be dismembered and the sole hope of the people of Calcutta, if they want reduction in the rate, lies not in dismembered undertakings, but to see that these undertakings are enlarged as far as possible so that there is efficiency and economy in their working. That policy of the 1910 Act is the policy which is being pursued all over the world.

Then the hon'ble members following the remarks of one of these pretended experts stated that the McGowan Committee's Report has been rejected. There was never anything more incorrect than that. The National Electricity Bill does not reject the principle of the McGowan Committee's Report. It differs only to a slight extent, namely, that whereas the McGowan Committee talked about public control as a preliminary to public ownership, the National Electricity Bill accepts public ownership. Every main principle enunciated in the report has been accepted by the National Electricity Bill. These are the principles which have been accepted. "That municipalisation hinders nationalisation and does not promote it; that in the case of municipalities that have got the power to purchase undertakings within their municipal limits, which undertakings are

larger in extent, the right of the municipalities should be suspended and no municipality should be allowed to purchase it." This is in the McGowan Committee's Report, and this is the principle which has been accepted by the National Electricity Bill. No municipality or Corporation, even though it may have the right, as the Calcutta Corporation has got the right, shall be permitted to exercise the right of purchase and dismember an electricity undertaking. I do not know where the hon'ble members have got the idea that the McGowan Committee's Report has been rejected on this fundamental principle. It states that as a first step towards public control, the prevention of the splitting of these comprehensive undertakings in consequence of the exercise of the rights of purchase by individual local authorities, must be resorted to—they must not be allowed to dismember the undertakings. Now what follows from it? I must congratulate the somewhat acute intelligence of Mr. Humayun Kabir on this point, and deplore the illogical conclusions of the other members. There is no question of extension of the license of the Calcutta Electric Supply Corporation for a period of ten years. The hon'ble mover seems to think that the license is about to expire and that Government is giving a fresh license for ten years. But the license is a running license which will continue until such time as either the Corporation is permitted to exercise its option or Government exercise their option. Mr. Kabir rightly stated that the result of this would be that ten years hence we would have the same thing, if not in a more aggravated form. Ten years hence, the electricity undertakings would be still bigger and still more efficient and it would not be permitted to be dismembered, if the principles which I have stated are sound. Therefore, the only alternative is not to refuse extension for ten years, but to pursue a policy of nationalisation which Government, here and now, do propose to pursue. So the question with regard to ten years' extension goes by the board.

Mr. PRESIDENT: Will you take long, Mr. Suhrawardy, because I want to adjourn the House for prayer?

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I have yet much to say.

Mr. PRESIDENT: Then you might continue after adjournment.

Adjournment.

The Council then adjourned for 15 minutes for prayer.

After adjournment.

The Hon'ble Mr. H. S. SUHRAWARDY: The hon'ble mover has also referred to an interview which certain members of the Calcutta Corporation had with me, and has said that, at that moment, I was enthused with the idea of acquiring the Electric Supply Corporation's undertaking for the Calcutta Corporation. I must confess that at that moment, being as ignorant of electricity practice as my hon'ble friend still is at the present moment, I did think that municipalisation of electricity supply would be a first step towards nationalisation, and I thought that we could gradually take away these various licences, which would bring nationalisation nearer. But after deeper study and after a little bit more knowledge, which I recommend my friend to acquire—and if my good friend will come and see me in my office in Writers' Buildings I shall be able to place all the books and literature and facts and figures before him—after deeper study, Sir, I have most definitely come to the conclusion—as I have already said that the dismemberment of an efficient undertaking will not lead to any lowering of prices. That is axiomatic. If you are going to have an inefficient undertaking particularly with loads all of which are unbalanced —I wonder if my friends understand what I am talking about when I am speaking of unbalanced loads, namely, that that undertaking can be most efficient which has both a night load and a day load as far equal as possible, so that the machine runs day and night. Now the present Electric Supply Corporation can manage to do so, because it gives about 232 millions high tension energy in the day and gives you a certain degree of lighting and domestic consumption at night for Calcutta. All that can be balanced, but if you take away this major portion of high-tension electricity, most of which is outside Calcutta, you are unbalancing the load within Calcutta and the undertaking is bound to be inefficient and will therefore be more costly.

The Hon'ble Mr. NALINI RANJAN SARKER: The Punjab is suffering heavily on this account.

The Hon'ble Mr. H. S. SUHRAWARDY: These things have got to be taken into consideration when talking about dismemberment of an undertaking, and when talking about high-tension energy, I will just say one thing, and that is—, when Mr. Humayun Kabir was talking about these things and when I interrupted him,—that Mr. Kabir does not know one point, namely, that high-tension energy is supplied in bulk. All that the Electric Supply Corporation has got to do is to bring electricity at high tension to a certain point and supply at 6,000 volts any number of units, and it has got no other

expenses to bear; whereas electricity of other kinds cannot be supplied in bulk. The real cause why the price of other voltages of electricity rises up is the distribution cost. If you will read that Report, you will find that the cost of generation of electricity is very small. It is in the distribution of that energy that the cost piles up. ·477 annas per unit which is the price of high-tension electricity is a dividend-paying proposition for the company; it gives about 5·8 per cent. on supply of high-tension electricity. According to the figures of the Company—and this may be a matter for enquiry—the cost of domestic consumption comes to about 1·6 annas. You can see the vast difference in the costing on account of the distribution system.

I do not know whether it would be worth while really to refer at all to the tender of the Calcutta Corporation. Hon'ble members have referred to what I said in another House about the tender when I described it as childish and worthless. I spoke, Sir, words of moderation when I made that statement. I will just say in passing, just to give you a few points as to its worthlessness, that my friend Mr. Shrish Chakraverti—

(At this stage the Hon'ble Minister reached the time-limit but desired five minutes more to finish his speech.)

Mr. PRESIDENT: You may have another fifteen minutes after the reply of the hon'ble mover or if you like you can continue and finish your speech in five minutes. Please do as you like.

The Hon'ble Mr. H. S. SUHRAWARDY: I would like to continue and finish now. My friend Mr. Chakraverti spoke about another power-house. Now the question is not that of arbitration in order to ascertain what is the value of the undertaking. You have given a specific tender and on the basis of that tender you have juggled with decimal figures and pointed out that a certain amount will be available for profit. In that specific tender you have put down 132·7 lakhs of rupees as the value of the undertaking of the Calcutta Electric Supply Corporation within Calcutta Municipality. Now so far as the office building is concerned, stores and loss occasioned by severance and even high-tension cables have all been left out of account. One other most important fact which has also been left out is this. If you look at the license, you will find that you have got to pay to the Electric Supply Corporation, not under the Act of 1903, nor under the Act of 1910, but under the terms of the license as a "going" concern. Hon'ble members who are lawyers will know what a going concern means. A going concern does not mean the value of plant less depreciation only. If you attempt any valuation you have got to include allowance for damage, compensation, profits and good will of the undertaking, but no price has been given with regard

to that, and on the basis of that valuation you have put forward a tender and having put forward that tender you say that this is the money that the Agent will have to produce, he will take 6 per cent. for interest and 3 per cent. for amortisation and so much of it will be divided into three parts. Now you talk about a power station and you say that it will cost Rs. 6,00,000. But which of the power-stations are you going to buy? You have not specified it, nor valued it. If you have to construct a new power house, it will take a long time and surely you cannot keep Calcutta devoid of electricity, even for a moment! You should also note that it is not merely a question of supply but of ordering, shipping and fitting up, etc., etc. Then, again, first of all it is very doubtful if Calcutta Corporation with a deficit budget will be able to raise sufficient money to purchase the concern. This six lakhs that you speak of as the cost of a proper plant is on the basis of your figures for domestic consumption, and power and industry. Now, as a matter of fact, the figures are wrong. If correct figures are taken, then on the basis of your figures of consumption, the power house will cost you Rs. 132 lakhs and not six lakhs. I ask you therefore what is the value of this tender, and if a person tenders on that basis, how can you hold him to it, when he will find that instead of 132 lakhs, the Agent will actually have to pay, after arbitration say, 300 or 400 lakhs? He will have to put up power plants which may cost him as much as your tender.

Now, Sir, in this wonderful tender, the agent has not been asked to set apart even a single pie for depreciation. You will give him 6 per cent. for profit and you will set apart 6 per cent. for amortisation. That means that after a period of 25 years, Calcutta will be left with a general Electric Supply with its cables, distribution and everything else in an absolutely rotten state, because there is not a single pice set apart for depreciation. This tender is claimed to have been produced by electricity experts and is expected to be taken seriously. Then, there is an item in the agency to this effect that the agent need not provide for expansion need not incur capital or working expenditure which may not be profitable, that is to say, right from the very beginning, expansion has been ruled out. Whenever an electrical undertaking expands, it tries to expand in those areas where there is no electricity, and for a long time it will be unremunerative. Right from the very beginning you are asking the agent, you merely carry on with what is here and you have no necessity to expand; you will not be called upon to do so. Then there are innumerable defects in this tender which would show that the tender is not worth the paper on which it is written and has been made for the purpose of hoodwinking not only the people outside but also the people of Calcutta. I regret very much that the hon'ble members have allowed themselves to be influenced by the canard which has been raised that under the circumstances the rates would have been

reduced to 1 anna, and hence the people of Calcutta will lose Rs. 24 lakhs a year, and why should we allow the people of Calcutta to lose Rs. 24 lakhs? There is absolutely no meaning in this, for we have not ignored these points from our consideration——

(At this stage the Hon'ble Minister having reached his time-limit, resumed his seat.)

Mr. LALIT CHANDRA DAS: Mr. President, Sir, my honourable friend Mr. Humayun Kabir in his speech said that he was not enamoured of the form of the resolution and the Hon'ble Minister opposite was also pleased to remark, here is a Congress member who has appealed for Governor's interference against his principle. But as a matter of fact, if I had sent an ordinary resolution, it would never have come up before this Council before another session. I tried an adjournment motion which was disallowed. And now this is the only way in which I can bring up this subject before this House. I believe, the Commerce Minister is the youngest Minister of the whole lot, and if he has patience to go through my resolution he will nowhere find in any line whatever——

The Hon'ble Mr. H. S. SUHRAWARDY: I regret I have to repudiate this sort of impeachment.

Mr. LALIT CHANDRA DAS:—any invitation to His Excellency to interfere with the powers of the Hon'ble Minister. On the contrary, what has been stated in the resolution is an expression of opinion of this Council to the effect that the refusal should not be persisted in and to the effect that the continuance of the present arrangement should be stopped. The most important part of the resolution is to the effect that this opinion be duly and fully considered in the Council of Ministers before any final decision is taken about the continuance of the license of the said Electric Supply Corporation. Now I ask, where in my resolution is an invitation to His Excellency that the powers of the Hon'ble Minister should be in any way interfered with? Before the Hon'ble Minister carefully scans my resolution, he should not pass a remark as he has done. It was unfair on his part, to say the least of it. The next point is that no attempt whatsoever has been made by the Hon'ble Minister to meet our points of view. All that has been said grandiloquently is that he is attempting to nationalise electricity and that there is a big scheme ahead. None will be more glad than ourselves when we learn that Government has produced such a scheme. We will wait for the time when he will nationalise the whole industry in order to give electricity even to the distant villages for the economic development of our country. But should we for that wait and allow a foreign company in the meantime to exploit the rate-payers of this city?

Has there been any answer to that? No. The Hon'ble Minister was a very powerful supporter of the Bengal Tenancy Amendment Act, as his heart actually melted for his tenants. But why has not his heart melted for the rate-payers of Calcutta? All that we demand is the municipalisation of the scheme; all that we demand is that before the question of nationalisation is actualy taken up in right earnest and before that scheme is put into execution, this foreign company which is exploiting the resources of the rate-payers of this city should be stopped from doing so and that whenever Government will actually put into operation their scheme of nationalisation, the Calcutta Corporation would be the first to come forward and offer their business to be taken up by the Government, and the mufassil municipalities, viz., the municipalities of Comilla and other places, where it is being run by private companies, will be glad to offer their electrical concerns to be taken up by Government in support of that grand scheme of nationalisation. But till that day comes, the municipalisation of these electrical concerns by taking over the undertakings from the Calcutta Electric Supply Corporation should have been allowed. But the Hon'ble Minister has raised the question of dismemberment. I respectfully submit, dismemberment means breaking up into parts of a particular body. If the Calcutta license is not a part of a particular body, there cannot be any question of dismemberment. As a matter of fact, in order to hide this and in order to embarrass not only the Government but also the Calcutta Corporation, the Calcutta Electric Supply Corporation has made a muddle of many licenses, and then has raised the question of dismemberment as a huge joke. As a matter of fact, they have combined all other undertakings into one unit, so that the Calcutta license may not be distinguished from other licenses. My point is that the Calcutta Electric Supply Corporation is running its concerns under separate and distinct licenses, and the Calcutta license is one which has practically nothing to do with the rest of them. So what the Calcutta Corporation asks for is not dismemberment, what it asks for is just and right and is the fulfilment of the letter of the law. What it asks for is the permission of Government to purchase that undertaking and nothing more. Then it has been said that if this happens to be the case, there will be a competition with the neighbouring licensing companies and the company which will work as the agent of the Calcutta Corporation, will not be able to reduce the unit rate from 2 annas to 1 anna. That is a point to which I do not agree. As a matter of fact, what is the position of the Calcutta Corporation? The position is that they sent up a letter to the Government so far back as in September, 1937, and the Hon'ble Minister sat tight over it. But as soon as the Corporation circulated notices in the United Kingdom, the Continent and the United States of America calling for tenders, they fell upon the Calcutta Corporation and refused permission. Of course, my hon'ble friend was quite within his rights to examine the

tenders that have been offered. Now, my honourable friend coming out from an Inn of Court has taken upon himself the duty of an expert in examining the electric tenders. Whether that is a justice or a mere pretence is not for me to say. But I say, if there was any loophole in the offer that was made and if there was any just room for criticism by the Hon'ble Minister of the tenders that have been submitted to the Government, why did not the Government wait for other tenders? If the Calcutta Corporation fail to produce other tenders and the Government is not satisfied with the tenders submitted after examination, then, of course, there will be the just ground to allow things to go on as they are, if Government or the Calcutta Corporation will not take it up on its responsibility.

But I submit before the other tenders with which the Calcutta Corporation is very anxious to deal with and to produce before the Government could be produced our Hon'ble Minister examined the tender already placed as an expert himself. All that we do want now is a reopening of the question and a reconsideration by our Council of Ministers. When the Calcutta Corporation produces tenders with details, our Hon'ble Ministers may be pleased to go through them with the help of bigger experts, examine the whole thing and if satisfied that there is a company which will be able to run the whole thing and will be able to reduce the rate giving relief to the rate-payers, then the case of the Calcutta Corporation would come in; that is our claim. Our claim is only for re-consideration. That is not a vote of censure. Why should there be any objection?

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, may I rise to make the position a bit clearer? The logical result of my hon'ble friend's speech, namely, that the Calcutta Electric Supply Corporation ought to have had a self-contained unit for the Calcutta Municipality and a self-contained unit for all licenses would mean that instead of having one or two inter-connected powerhouses which really serve as standbys to each other, they ought to have had fifteen separate power houses. I would ask the House to judge whether the logical result of this dismemberment would lead to better efficiency and economy or would that lead to increase in the rates?

With regard to the question of tender, Sir, my hon'ble friend is mistaken. I have not placed any tender sent by any tenderer. This is a tender form which has been sent by the Calcutta Corporation itself for the guidance of other tenders. Therefore this is the only tender which is before the House and can be there for consideration.

Mr. HAMIDUL HUQ CHOWDHURY: May I on a point of information, Sir, ask a question of the Hon'ble Minister? One of the objections of the Hon'ble Minister is that the Corporation cannot exercise the option under the Act. But he has not replied as regards the

clause, namely, that the Local Government shall have the like option upon the like terms and conditions when the Calcutta Corporation itself or the local authority cannot exercise on account of certain difficulty, namely, their local area being limited with reference to the operation of the Company. What are the Government going to do under that clause? Are they going to take action under that clause? Further, if the action has to be taken, it is to be on the expiry of the term of ten years or twenty years, as the case may be, as provided by the Act. Once the period restart, the power will remain in suspense for another term of ten years.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, the question for which answer is sought is really germane to the subject matter of the discussion. Because the subject matter of discussion is whether Government have acted rightly in refusing sanction to the Calcutta Corporation. As to what Government is subsequently going to do is a different matter altogether. But as I have already pointed out the Government is going to nationalise the undertaking. The question which my good friend is asking is whether Government proposes to exercise the option which is given by clause 7(*1*) of the Act of 1910. I can state at once that Government does not propose to do so, because if Government had proposed to exercise that option at this stage the result of that would have been dismemberment as well. Now, I visualise the right of the Government under the Act of 1910 to exercise the option of buying up or taking up the whole undertaking. Well, that is nationalisation. It is not necessary in the process of nationalisation for Government to exercise the option under the Act. The Government can nationalise the undertaking consitutionally, irrespective of license, and Government at the present moment propose doing so. Let that be absolutely clear.

Mr. PRESIDENT: The question before the House is that an address be presented to the Governor through the Hon'ble the President embodying the declaration of this Council that it is of opinion that His Excellency's Minister's refusal to accord sanction to the Calcutta Corporation to purchase the undertakings of the Calcutta Electric Supply Corporation within the municipal limits of Calcutta is detrimental to the best interests of the people of Calcutta and is fraught with the possibilities of retarding the economic development of the Province and should not be persisted in and that the continuance of the present arrangement for the next ten years with the aforementioned Supply Corporation should be stopped and that His Excellency may be pleased to recommend that this opinion be duly and fully considered in the Council of his Ministers before any final decision is taken about the continuance of the Electric Supply License of the said Supply Corporation.

The House divided.

AYES—10.

Chakraverti, Mr. Shrish Chandra.
Chaudhury, Mr. Moazzemali.
Chowdhury, Mr. Hamidul Huq.
Das, Mr. Lalit Chandra.
Datta, Mr. Narendra Chandra.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Pal Chaudhury, Mr. Ranajit.
Sanyal, Mr. Sachindra Narayan.

NOES—23.

Ahmad, Mr. Naziruddin.
Ahmed, Mr. Mesbahuddin.
Baksh, Mr. Kader.
Chowdhury, Mr. Kharshed Alam.
D'Rozario, Mrs. K.
Elahi, Khan Bahadur S. Fazal.
Haider, Nawabzada Kamruddin.
Hamida Mamin, Begum.
Hosain, Khan Bahadur Saiyed Muazzameddin.
Hossain, Mr. Latafat.
Huq, Mr. Syed Muhammad Ghaziul.
Karim, Khan Bahadur M. Abdul.
Khan, Maulana Muhammad Akram.
Laidlaw, Mr. W. G. S.
Lamb, Mr. T.
McFarlane, Mr. J.
Molla, Khan Sahib Subidali.
Rahman, Mr. Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Shamsuzzoha, Khan Bahadur M.
Singh Ray, Mr. Saileswar.
Stokes, Mr. H. G.
Wilmer, Mr. D. H.

The motion was lost.

Adjournment.

The Council was then adjourned till 2-15 p.m. on Tuesday, the 1st March, 1938.

Members absent:

The following members were absent from the meeting held on the 25th February, 1938:—

(1) Chowdhury, Mr. Rezzaqul Haider.

(2) Dutta, Mr. Kamini Kumar.

(3) Esmail, Khwaja Muhammad.

(4) Jan, Khan Bahadur Shaikh Mahammad.

(5) Mookerji, Dr. Radha Kumud.

(6) Sinha, Rai Bahadur Surendra Narayan.

B. G. Press—1938-39—1401A—900.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Tuesday, the 1st March, 1938, at 2-15 p.m., being the seventeenth day of the First Session, pursuant to section 62 (*2*) (*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble MR. SATYENDRA CHANDRA MITRA) was in the Chair.

UNANSWERED QUESTIONS

Mr. NARENDRA CHANDRA DATTA: Mr. President, Sir, before the work of this House begins, I want to bring one fact to your notice. It is this: some of the questions which were sent on the 3rd January last have not been as yet replied. What is this? We do not know whether they propose to give any answers to those questions or not.

The Hon'ble Mr. NALINI RANJAN SARKER: I will make an enquiry and shall let the hon'ble members know to-morrow. I cannot off-hand give any reply.

Mr. PRESIDENT: Yes.

Mr. RANAJIT PAL CHOUDHURY: This is not the first occasion when these answers have not been given. The answers were not placed on the table even two or three days before and we are coming to the end of the session.

Mr. PRESIDENT: The Hon'ble Minister has promised that he will get a proper reply to the questions raised by the hon'ble members.

Official Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY:: Before we take up the business may I with your permisison move for the extension of the dates for the presentation of the report on the Bengal Tenancy Amendment Bill. (Hear, hear.) I beg to move that the dates on or before which the Select Committee on the Bill to further amend the Act

of 1885 has been instructed to present its report, be extended from the 1st March to 7th March 1938.

Mr. PRESIDENT: Motion moved that the dates on or before which the Select Committee further to amend the Act of 1885 has been instructed to present its report, be extended from 1st March to 7th March 1938. The question is that the motion be adopted.

The motion was agreed to.

General Budget Discussion.

Rai KESHAB CHANDRA BANERJEE Bahadur: Mr. President, Sir, it is no language of carping criticism when I say that I am disappointed with the Budget. When in July last the Hon'ble Finance Minister presented the Financial Estimates of Government, I maintained a discreet silence because I honestly felt that the period of six months in office was not sufficient for the preparation of a budget fulfilling the needs and requirements of the people. We were then promised many things and were definitely assured that the urgent problems of the country, some of which were specifically mentioned, would receive the sympathetic consideration of the Government. Personally, I relied on that assurance and refrained from participating in the general discussion of the Budget. But, Sir, the Budget Estimates for the coming year, with all the unsatisfactory features distinctly maintained, mark the absence of appreciation of the grave problems facing the country. These problems call for immediate attention but they have been side-tracked under cover of platitudinous statements. The most disappointing feature of the Budget provisions is the inability of the Ministry to appreciate the functions of the Government. It is stated that "to elevate society, to improve human material, to rouse the masses to a sense of intolerance of their present condition, in short to set the forces that make for progress in motion, is a duty that must finally devolve on society itself. We can but point to the road". Sir, this mediæval conception of the State as guiding and energising the activities of Government is bound to land the country in the sands of inactivity. It is an astounding proposition in this modern age to say that the State will only show the way and that the execution of details and the responsibilities in regard to reconstructional schemes must be shouldered by the society. It is surprising to observe that Government will have all the coercive apparatus and the sources of income by direct and indirect taxation, proposed and imposed, only "to point to the road" and cry halt perhaps for automatic reconstruction by society itself. This confusion about the functions of the Government which is the dominant characteristic of the Budget Statement of the Hon'ble Finance Minister, is responsible for half-hearted and half-baked schemes of national welfare and for pandering to the belief that the

solution of the problem of unemployment lies in the creation of a few services under the Government. I am really sorry that the country with all its stupendous problems is being sacrificed at the altar of political expediency and confused thinking.

Sir, on the ideological plane the Budget Statement contains a number of conflicting observations which indicate the nature of confusion. The Hon'ble Finance Minister admits that the old ideals of individual accumulation of wealth will not do. At one stage he admits that Government will provide the machinery for widening opportunities and alleviating the sufferings of the people, but at another stage he avers that Government can only help in an indirect way. All the schemes that we find in the Budget are born of this imperfect understanding of the functions of Government and of the problems of the country. They do not indicate any definite line of action, nor are they bound up with the fundamentals of the problems; they merely seek to touch the fringe, although they have all the materials of deception of unwary critics. Accordingly, superficial observers only will find virtues in the Budget schemes for reconstruction.

Sir, the Finance Minister claims credit in being able to declare that the total expenditure on Debt Conciliation in 1938-39 has been raised to over 24½ lakhs, but those who have even a nodding acquaintance with the principles of rural economy know it full well that Debt Conciliation without providing for credit-agencies is ultimately ruinous to the agriculturist for whose benefit apparently the Debt Settlement Boards are being set up. But to look beyond and to look deep into the problem is perhaps not considered to be the duty of the Government. That is also why the reorganisation of the Co-operative Department stops at merely deputing two officers of the Government to Denmark and other countries to study the practical working of the co-operative movement. That is also why Government efforts at improving agriculture halt at adopting preliminary steps in connection with the establishment of regulated markets for jute and at providing one lakh of rupees for jute-census. All this practically exhausts the Government's schemes for rural welfare. One must be a bold prophet to maintain that a budget of the kind as presented before the House will ease the economic situation to any appreciable extent. A budget is to be condemned not for its deficit but for the absence of specific proposals for national prosperity. The Budget proposals are all superficial inasmuch as they do not seek to deal with the fundamentals of the problems; the problem of production is left to primitive methods and individual whims; the problem of distribution is left to erratic and unscientific ways. There is no planning, no constructive or well-defined policy behind the so-called schemes of national welfare. The holiday-spirit and amateurist instinct exhibited in the Budget proposals is not conducive to the future prosperity of the country. By providing for the employment of 270

officers, 93 technical assistants, 2,544 additional clerks, 25 typists and 2,280 peons without retrenching expenditure on unproductive aspects of the administration, the Hon'ble Finance Minister, far from making any contribution to the solution of the country's problems, does merely emphasise the need for further taxation without any assurance to devote a single farthing to works of public utility. Any welfare scheme will, of course, widen the door of employment, but it is no argument to say that the widening of the door of employment exhausts the whole contents of a welfare scheme, but, unfortunately, such a confusion is discernible in Budget Statement. That is the most tragic part of it.

Sir, I criticise this barren, deceptive Budget, more in sorrow than in anger. I would have been really glad if I could congratulate the Hon'ble Finance Minister in whose abilities and resourcefulness I have great confidence. But the Budget, as presented, is not a financial statement—it is a political budget bereft of the essential factors that constitute the basis of such statements.

Sir, while I criticise the Budget, I cannot but congratulate the Hon'ble Finance Minister on his great literary effort. His Budget Statement, like its predecessor, is rich in diction and differs materially from similar statements to which we were accustomed in the old Council. It is useless to blame the Finance Minister alone for the unsatisfactory features of his latest production. He is to frame his Budget in strict consonance with the policy adopted by the Cabinet. In his speech the Hon'ble Minister has indulged in a homily that the problems of the country "should be viewed against a human background," and that the aim of the Government was "to resurrect the average man, who in this predominantly agricultural country, is the cultivator". But, Sir, a glance through the Budget provisions does not reveal any real attempt on the part of the Government to improve the financial condition of the agriculturist. I have already dealt with Debt Settlement and Rural Credit. I am glad that additional grants have been provided for non-Government Arts Colleges and that a special grant has been made to Colleges under the Board of Intermediate and Secondary Education, Dacca. Provision has also been made for increased grants to non-Government secondary schools and madrasahs. Female education has not, I find, escaped the attention of Government. But, Sir, the real problem of female education will not be solved by making a small grant here and a small grant there; nor can this vital question be successfully tackled by opening a Purdah College for girls at a cost of 5 lakhs of rupees. We want a comprehensive scheme for the development of education in general and female education in particular. The entire system of education needs overhauling. I cannot admire the Government policy as reflected in the Budget Estimates. The primary education cess is still there. It will be a great burden on the

cultivator. So long as primary education is not made free and taxation done away with altogether, the present Government cannot expect to enjoy the blessings of the people.

Then, Sir, I am distressed at the absence of adequate provision for grants to Sanskrit *tols*. These *tols* differ essentially from other types of institutions in which the teacher has not to feed and accommodate his pupils at his own expense. It appears also that no provision has been made for vocational education.

Turning now to agriculture, it seems to me that better treatment should have been meted out to this important department of administration, agriculture being the mainstay of the dumb millions of Bengal. Sir, the provision of half a lakh of rupees for jute restriction propaganda seems absolutely unnecessary, as the money spent in the past was practically wasted. Voluntary effort has failed, as will be evident from the fact that in spite of all that was done in this direction, overproduction could not be prevented last year. There seems, therefore, to be no remedy without legislation for fixing the minimum price of jute and for compulsory restriction of acreage under jute cultivation.

Mr. HAMIDUL HUQ CHOWDHURY: Mr. President, Sir, our thanks are due to the Hon'ble Finance Minister for affording another opportunity to this House to discuss the Budget Statement. But for this, I would have protested and would have complained that the opportunity given to this House for discussing the provisions of the Budget, containing figure works covering about five hundred pages, during three days, is inadequate. Further, the period of three days intervening between the presentation of the Budget and its discussion is also quite insufficient and nobody can master all the complicated questions within this short time of three days. Therefore, Sir, in affording this extra opportunity to us the Hon'ble Finance Minister has done justice and recognised the case for extra time, and in future, Sir, we submit that he will take into consideration this aspect, viz., whether it is possible for Government to give further time and more opportunity to this House to discuss the Budget, to point out its defects, and to help Government in formulating their own policy, keeping in view the criticisms of this House.

Now, coming to the Budget itself, I must admit that there is a recognition in it of the problems that face us—I mean the problems of the day—but it lacks in one thing, viz., appreciation of the desirability of giving effect to suitable remedies.

Sir, if the Budget is to be an opportunity of revealing a new policy, a new scheme, and a departure from the old methods, then this Budget is hopelessly disappointing, as there is no revelation of any policy of Government—no plan and no time-table as to how their policy and programme will be given effect to. Sir, when the present

Ministry came into office, there was an atmosphere of optimism and hopefulness. When the first Budget was presented, there was some excuse for its shortcomings; and promises were made at the time. But this Budget only reveals some more promises and is much more disappointing. Sir, when this Government started on its career, it started under happy circumstances; it started with its old debts written off; it started with a comfortable balance; and it started, Sir, with scopes and opportunities of tapping all the resources that have remained untapped for the purpose of raising fresh revenues, but I must say, that Government have not taken full advantage of all these opportunities. Now, Sir, the present Budget in its true aspects, like its predecessors, is really an administrative budget, for it has provided only for a machinery for administering the different departments of Government. As before there is no adequate sum provided for rendering services to the people, and, as I have said, Sir, it remains an administrative budget as usual. So far as the administrative cost of the province is concerned, I have noticed that instead of decreasing, it has increased; and the increase, Sir, has gone up to a figure of Rs. 50 lakhs. I have carefully compiled the figures and taken only those items wherein the cost of administrative services has been provided for, and those sums, if taken by themselves, will show that there is an excess over last year's Budget by a sum of Rs. 50 lakhs. This, of course, Sir, includes the sum provided for administering the new Debt Settlement Boards, which will be inaugurated as from April next. If that sum is excluded, then the excess expenditure will amount to Rs. 26 lakhs. Therefore, instead of carrying out a policy of retrenchment, Government have increased the burden of the province by providing for a further sum to the already heavy administrative cost of the province.

Now, Sir, Government have made no attempt to cut down expenditure, though it must be said at this stage that it is not possible to expect Government to cut down appreciably the cost of administration. It is the heritage of the past, and it cannot be done away within the course of a year or even a number of years, but all that was expected was that a serious attempt would be made to curtail expenditure, and my submission, Sir, is that there is no indication of any such attempt on the part of Government.

Now, Sir, Government has provided a sum of Rs. 1 crore and odd for the nation-building departments. But where it has lacked and where it has failed is that the amount has been too much dissipated and the efforts have been too much frittered away; in fact, if it is examined, it will be found that this sum of Rs. 1 crore has been divided under as many as twenty heads, some of them receiving a paltry sum of Rs. 1½ lakhs;—take for example the case of providing communications in the villages: Rs. 1,50,000 has been provided for capital expenditure under this head. If you take into account the number of villages

in the province, it will be found that there are ninety thousand villages in Bengal, and if you divide the amount amongst all these villages, it will come to about rupee one and a few annas per village. Is this an amount which can bring about any improvement in village communications? Can any village union do any good to the village by getting this paltry sum of Rs. 1-2 or Rs. 1-3 thus distributed? It is, I must say, a sheer waste. Instead of frittering away this sum in this way, if further sums could be pooled from some other heads along with this amount, this sum could have been utilized in a better way. If Government had concentrated attention upon a few problems—problems which are so pressing that attention on them is immediately called for, much appreciable results could have been seen. For example, the problems that now face us, according to the Hon'ble Finance Minister's own statement are first education, then sanitation and lastly, the economic improvement of the villagers. If Government had spent the whole amount between two or three items, and would not have cared for the clamouring of the people for improvement in all directions, they would have done much more service to the province than they would do under the present arrangement. For example, they should have given further grant to Education—not to that part of Education which has already been over-patronised, but to that branch of Education which is badly in need of State help.

Then, Sir, another pressing question of the day is water-supply. It is repeating the old statement which has been repeated many times that in villages, although people are not actually dying for water, yet they are in fact thirsting for drink. Government have given a sum of Rs. 7 lakhs for this purpose: if instead of this, they had drawn up a programme of the total need of the province with regard to water-supply, they would have done real service to the province, would have been much more justified in the proposal and nearer a solution of the problem: if instead of haphazardly dividing the grant amongst the villages, they chalked out and laid down a plan for completing the whole programme within a number of years and if there had been a continuity in their policy, they would have realised the real magnitude of the problem and could have tackled it more efficiently and effectively. Instead of that, what have they done? They have granted a few lakhs of rupees and how that will be spent and what will be the agency for spending the grant has not been disclosed so far as the budget is concerned.

The next question is agricultural improvement. There is no indication in the Budget as to how that is going to be effected. We know that we have an Agricultural Department maintained at an annual cost of nearly Rs. 15 lakhs more or less for the last twenty-five years.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: It is nearly one-tenth of what the hon'ble member says.

Mr. HAMIDUL HUQ CHOWDHURY: I may be incorrect: the figure may be a little less. What is the purpose of the department? There is a research department and there is the administrative department. So far as the administration is concerned, they have been just carrying on but no actual and real service is being rendered to the people. So far as the research department is concerned, something is in fact being done for tackling with that aspect of the problem. I may say that two aspects of the problem should be kept in sight by the department concerned. One is the investigation in the laboratory and another is reaching the result of this investigation to the door of the people. Knowing as we do full well the conservation of the agriculturists, knowing full well how averse they are to taking to improved methods of which they themselves are not aware, have Government done anything for the purpose of bringing home to the agriculturists the results of their researches in the laboratories? Of course, the present Government is not responsible for the faults of the past Governments. But so far as the present Government is concerned, I do not discern in the present Budget any such plan or any change in the attitude of the Government, and there is no scheme for bringing about a change for the better. It is well known of course that there are a few agricultural farms which are sometimes erroneously described as demonstration farms but close to these farms will be found farms where old, antiquated methods of agriculture are still being followed and where old crops are still being sown. What is the reason?

Experience of other countries is available to us and we are not to plan for the first time. Every country which has done something for the improvement of agriculture has been faced with the same problems sometime or other. It is easy to achieve great results in the laboratories but it is very difficult to reach the results achieved in the laboratories or in demonstration farms to the people and induce them to accept them. That is also the problem before us. The demonstration part of the Agriculture Department has been hopelessly neglected. And so far as the present Budget is concerned, there is no plan for tackling this aspect of the problem.

Then let us take the question of education. The most pressing need of the province is the spread of primary education. Hundred and fifty years after the beginning of the British rule we are still trying to tackle this problem and not solve it! What is the Government plan? In 1930, I suppose a Bill was passed into law providing for primary education in the villages. If we have to tackle this problem, we must shun all these pretences. It is all very well to say that we have set up a machinery or are going to set up a machinery for the purpose of imparting education. But the absence of one word nullifies the whole purpose of the Act, viz., the word "compulsory". In Bengal there are fifty to sixty thousand primary schools; but there are only fifteen lakhs of scholars in them. Compare the figure of Great

Britain. There are only twenty-three thousand schools in the whole of British Isles, but there are as many as fifty-five lakhs of scholars. Although as compared with British Isles, we have double the number of schools, the number of scholars here is much less than one-third. It discloses that the scholars themselves are not very eager, neither the parents are eager to send them, unless there is some amount of compulsion.

The reason for the word "compulsion" being absent, is patent on the face of the Bill. The existing scheme of taxation can bring an amount of Rs. 1,20,00,000. But a conservative estimate of the total cost to meet the needs of primary education is 3 crores 50 lakhs of rupees. It is useless to spend five or ten lakhs more on this head. I do not like this system and I would say that this five or ten lakhs would be thrown into water. This Government have no plan of their own and without a plan the whole amount that we are going to spend would be a sheer waste. Therefore I would appeal to Government first of all to lay down their plan, chalk out a programme and then find out the cost of carrying it through and how this amount has to be raised. As I have said the amount necessary for starting compulsory primary education is 3 crores and 50 lakhs of rupees. We have to find this amount. The present system of taxation will create discontent and make this measure unpopular, because the whole of the district will be now compelled under the present system to pay tax for education. While A's son will get education, B's son will not, because the school that would be established under this system might be far away and B's children being young, would not be able to take advantage of it. B might say "My son is not getting education, why should I pay." Apart from this heavy burden, it will create further difficulty, because the people who would pay the tax will get no education. Therefore if a sum of 3 crores and 50 lakhs be spent, then every man who pays the tax will get the benefit of it. Therefore I suggest you will have to draw up a plan and you will have to find more money. If you start your scheme to-day, it is certain that it cannot be given effect to fully or brought into force within the next five years. You will have to create a large body of teachers. You will have to establish schools in every village. This will take five years. Under the Neimeyer Report we are entitled to get, nay we are certain to get the sum of a crore and a half from the Central Government after four years. Earmark that amount for primary education, because there is no greater need than the primary education upon which depends the success of your reforms. Among all your necessities it is the most important one and we must start with it at once. For this purpose earmark a crore and a half or at least a crore and a quarter of rupees.

At present you are giving 25 lakhs of rupees for primary education and this with what the District Boards contribute for this purpose.

will come to Rs. 50 lakhs. Utilise this amount yourself and commandeer it and further include Calcutta within the scheme. What was the purpose behind this exclusion of Calcutta from the operation of this Act? Calcutta has taken the burden of providing its own requirements and spends five or six lakhs of rupees for primary education. If you tax Calcutta you will get about Rs. 70 lakhs from this source. Either you must tax Calcutta for the benefit of the province as a whole or it must pay the cost of maintaining its own police—Presidency Police and release the province of a liability to the extent of 42 lakhs of rupees.

In this way if you calculate I submit you can find money you need for this. If you reveal your plan, you will get our support; darkness causes suspicion. If we are convinced of its practicability not only you will get our support but the support of the whole country.

Another problem is with regard to the Calcutta University, to which we are giving grants year after year. In spite of what the Sadler Committee said fifteen or twenty years ago we have taken no steps whatsoever to reform that institution. In fact all the Universities in India have remodelled their constitution according to that Report. So far as the Calcutta University is concerned, the Muslims have a grievance and a just grievance. This institution is being run purely as a sectarian institution for the benefit of one section of the people (Question). I will not say for the benefit of one section, but I say for the benefit of one family. Whenever we put up any scheme, it is shelved as a communal issue. Muslims in general have a grievance and Government have a great responsibility in this matter. Eighty per cent. of the members of the Senate are nominated and even now the Senate is where it stood fifteen or twenty years ago so far as Moslem representation is concerned. The Muhammadan representation there is only 5 per cent., although the University had been under the charge of a Mussalman Minister for the last twelve years. Therefore the whole machinery of the University requires to be overhauled before we give any further grant to it.

As regards Government colleges and secondary schools, I add my voice of protest to those of others regarding the method and manner of giving Government help. Government Art colleges and schools should be abolished and deprovincialised and the amount of Rs. 28 lakhs, that we are spending on them should be utilised for financing the private schools which are in greater need of financial help and a part of it may be diverted to technical and primary schools.

In the mufassil there is no facility for the Muslims to educate their girls. It is no good saying that Mussalmans can send their girls to the institutions which are already there. Either due to prejudice or due to some other good reasons, they do not send their girls to those schools, but while you are introducing primary education for all sections of the people you must see to it that opportunities are given

to the girls of the Muhammadan community to get education if necessary in separate schools. The provision for a purdah college satisfies nobody. The Mussalmans wanted a college for themselves. This Purdah college has an ominous look; we do not know what its ultimate fate will be. If there is a necessity for establishing a Mussalman college, let it be a Muslim and Muslim college only.

It was demanded that the present institution called the Sakhawat Memorial School should be raised to a secondary college. If it was done that would have been a proper recognition of the services rendered by the founder of the School. Instead of that, Government have planned out the establishment of a purdah college.

On Industrial development I shall very shortly touch. We have been repeatedly told that Government has no duty in developing the industries of the country, may I point out one patent thing which is before us, namely, the Railways. Railways would not have been possible in India but for Government help. In fact, 90 per cent. of the capital was provided by the State and the rest by private concerns. Look at Mysore, and what it is doing? During the course of five or six years it has started eleven mills, cotton mills, glass factories, iron factories and what not—all by State aid and 25 or 50 per cent. of the capital and a good proportion of the directorate were supplied by the State.

Mr. SHRISH CHANDRA CHAKRAVERTI: Mr. President, Sir, at the time of presentation of the Budget the Hon'ble Finance Minister in the overflow of the milk of human kindness has deigned to assure us that he would bestow his best considerations on our recommendations about budget provisions. Being encouraged by such assurance, I take my stand before this august House. If my criticisms appear to be sufficiently constructive in the judgment of the Hon'ble Finance Minister, then they might be given effect to. Some have blamed the Finance Minister on the ground that the Budget has fallen far short of their expectation and some have also congratulated him. I do neither. He has simply put the demands of the Hon'ble Ministers in charge of different departments in proper form like a glorified chief accountant with due regard to the money at his disposal. He does not initiate any legislation, nation-building or otherwise. Of course, he could in course of his duties augment the income of Bengal by retrenchment, *i.e.*, by the way of Indianisation or retrenching particular departments or by exacting more subvention from the Central Government in respect of Jute Export Duty, Road Development Fund and out of railways and income-tax receipts. The Central Government had to yield to the pressure put by the various public bodies of Bengal which resulted in Niemeyer's Award. The Finance Minister can continue the fight and support the just claim for a more liberal treatment from the Central Government. He can

also organise State industries by nationalisation of public utility departments. Will he please tell us what he has done in that direction?

The Budget as it has been framed, may justly be termed as a "dole-budget". While there was unemployment in England, Government used to distribute doles to unemployed people pending arrangements of a permanent character. Similarly, the popular Ministers here are distributing doles to keep up their popularity without making any attempt whatsoever to tackle any problem fully which affects the well-being of the people. I find also that some of the provisions are quite inadequate, and there are some matters which have been entirely ignored. As regards the Viswavarati, it is really shame that such an institution should be given a grant of Rs. 6,500 only. No grant has been made for *tols* which undertake to impart Sanskrit education, and there has been no grant even for the Kaviraji, Hakimi or Unani system of medicine which is, according to many, eminently suitable for treatment of the people of this country. I may mention here that the Bengal Government has already recognised the Ayurvedic system of medicine by founding a State Faculty of Ayurveda. The Governments of Bihar and the Punjab and, I understand, other Governments also have already made long strides in this direction by establishing Government colleges and giving aids to Kaviraji hospitals, etc.

Another point which I should like to bring to the particular attention of the Hon'ble Finance Minister, and which I believe he knows more fully than I do, is that Indian capital is very shy, specially capital in Bengal. Government may provide commercial bureaus for enlightening the people and encourage them to start industries which are profitable in other countries and also directly help them to import mill-machinery, etc., from foreign countries. Another crying grievance of this province is that Bengalee commercial concerns have got to borrow money paying a very high rate of interest, and as we feel for the indebtedness of the agriculturists and peasants, we ought to feel in the same way with regard to the conditions of the commercial firms of Calcutta, which have got no banking facilities like those of the European merchants. I hope some relief ought to be afforded to them. Another suggestion of mine would be that the country-side should be developed with a net-work of roads for inter-communication between districts and districts and between villages and villages, and special attention should be given to this matter so that roads might be accessible during the rains. We can far more easily travel from Calcutta to Bombay, but it will be difficult to travel from one district to another, and this is eminently necessary for closer connection with the town, so that the urban people might be encouraged to resume country life as is done in England. The problem of malaria is interconnected with the problem of irrigation, so I request the Cabinet through the Finance Minister that a Water-Ways Board should be

constituted as early as possible. A proper plan should be made. (At this stage the speaker reached the time-limit) May I ask, Sir, how much time I shall be allowed?

Mr. PRESIDENT: I am allowing five minutes only to each speaker, but as you are the Deputy Leader of the Congress Party, I have given you ten minutes, which you have already exhausted. I therefore hope that you will now conclude your speech.

Mr. SHRISH CHANDRA CHAKRAVERTI: So I suggest that a proper plan should be made out to tackle the different problems that are staring us in the face. A list should be made out indicating the order of precedence of the measures to be introduced. Matters requiring immediate solution should be first attended to. There is also universal complaint against the working of the Debt Settlement Boards and it is better either to declare a moratorium of debts for some years or to issue debentures to wipe off the debts of the cultivators and make the same repayable by them to Government within a period of thirty years with an interest thereon at the rates of 5 per cent. per annum. The political prisoners should be released at once and the money thus rendered available should be utilised by taking steps to remove unemployment. There is one other important question—about the building of a Chamber for this Council. In view of our national want, neither should we support nor should Government propose an expenditure of a large sum of money on this project. I would suggest that meetings of this House might be so arranged as to avoid any clash between the sittings of the Assembly and of the Council. Sittings may be fixed from 9 a.m. to 12 a.m. or 1 p.m.

Mr. HAMIDUL HUQ CHOWDHURY: If that is the timing you are going to suggest then we will refuse to sit at that hour!

Mr. SHRISH CHANDRA CHAKRAVERTI: I mean from 9 a.m. to 12 a.m. or 1 p.m. However, Sir, I propose to deal very shortly with the concluding speech of the Hon'ble Finance Minister, which is an admixture of various political theories as the Budget itself, without achieving the object it seeks. He has advocated the doctrine of Laissez Faire while preaching the nationalisation of wealth and abolition of private property as envisaged in communistic state. In and between, he has moved like a shuttle-cock from one theory to the other harping on, at the same time, with as much boldness as he is capable of that people and not the Government, are responsible for national prosperity.

Mr. PRESIDENT: Order, order. I think the hon'ble member has finished his speech.

Mr. SHRISH CHANDRA CHAKRAVERTI: Will you please give me three minutes more, as I have many more things to say?

Mr. PRESIDENT: No, I am sorry I cannot give you any more time.

Rai MANMATHA NATH BOSE Bahadur: Mr. President, Sir, I congratulate the Hon'ble Finance Minister for presenting a budget which, to my mind, is much better than that of the last year and for paying attention to the nation-building departments. Defects there are and they are bound to remain, but I am thankful to him for what he has done. First of all, in connection with the administration of justice, I would like to draw the attention of the Hon'ble Finance Minister to the condition of the ministerial staff of the High Court, as their pay and prospects are very much discouraging. In 1922 though the McAlpin Committee recommended the same scale of pay in the lower division of the High Court as in the Bengal Secretariat, yet the Government of Bengal granted an inferior scale to the High Court staff. The reason for this step-motherly treatment is unknown. Again, in 1923, the Muddiman Committee abolished all upper division posts and sanctioned a few allowances of Rs. 20 only. So there is no chance of promotion from the lower division to the upper division barring a few allowances, and a few superintendentships, the number of which are very limited. It is said that the abolition of the upper division posts was due to the then financial stringency of the Government. I understand Mr. Narendra Kumar Basu moved a resolution for ameliorating the condition of the clerks of the High Court in the last Bengal Legislative Council, and although the then Finance Member agreed with him, nothing was done on the plea of want of funds. Now that conditions have improved, may I hope that the Hon'ble Finance Minister will take a sympathetic view of the situation and try to improve the poor lot of the High Court clerks? I am glad that the the Hon'ble Finance Minister has been able this year to grant a larger amount to Sanskrit *tols*, and I hope that the Hon'ble Finance Minister will be able to increase the grant on the next occasion, for it is not a big amount after all. A perusal of the list of institutions to be benefited shows that the grants-in-aid have been carefully distributed for which the Finance Minister is to be congratulated. May I appeal both to the Finance Minister and the Chief Minister on behalf of another most deserving institution which has recently been founded in Midnapore, I mean the Vidyasagar Memorial Hall with a library attached, for which a certain amount of money has already been raised by the District Magistrate. The late Pandit was one of the pioneers of higher education in India and it is worth having a memorial in the name of that great man in his native district. It is desirable also that some financial help would also be forthcoming

from the State. I trust the Hon'ble Finance Minister will see his way to make a capital grant of at least Rs. 10,000 for the purpose and I hope my appeal for such a worthy cause will not go in vain. In this connection I wish to draw his attention also to the condition of the Midnapore College. Originally this was a Government college and was transferred to the Midnapore Municipality for political reasons. Some years ago, the college was taken back by Government from the municipality and was made over to the management of a Governing Body appointed by the District Magistrate. But unfortunately this body has no money of its own. Representations were made by this body for Government management and it is believed that Government would soon take it over. I am therefore anxious to know if any provision has been made in the Budget for the management of the Midnapore College.

There is another matter, viz., the Youth Welfare work for which I find Rs. 2,50,000 has been provided, and as there is no explanatory note in the Budget, I am anxious to know for what purpose this huge sum is going to be spent. I cannot but conclude without a reference to middle-class unemployment. No doubt the Hon'ble Minister has tried to grapple with the situation, but as the situation is extremely serious, I suggest that a further attempt be made to cope with the problem.

The Hon'ble Mr. NALINI RANJAN SARKER: Mr. President, Sir, I am grateful for the many personal compliments that have been paid me in this House, even though some of the hon'ble members have mixed compliments with vehement and often bitter criticism of the Budget. I am particularly grateful that all hon'ble members have done the compliment of reading a "dull" budget speech whether carefully or superficially. But I regret to say that the discussion in this House reveals that with my best efforts I have not been able to make myself fully intelligible to the hon'ble members on various matters. Had I been able to do so, I feel that much of the criticisms and vehemence would have been avoided or at least it would have served the intention of the hon'ble members of convincing me that I have more often than not been in the wrong. As it is, I find that criticism offered by some of the hon'ble members amounts merely to an emphasising of the obvious. Most of what they have said nobody disputes. It is no use their reiterating sentiments about the existence of hungry millions, the widespread illiteracy, the appalling mortality from preventible diseases, the thousands of unemployed and so on and so forth. All these things are well known. The problem before us to-day is how to remedy the situation. That is the question that calls for our concentration.

As far as I could gather, criticism both inside and outside the House has been of two kinds. Some hon'ble members, conspicuously

those on the other side of the House, have sought to make out that nothing of a constructive nature has been attempted or provided for in the Budget, that no clear-cut policy has been followed in making provisions in the different nation-building departments, that in some respects the present Budget is even more reactionary and retrograde than previous ones. Some hon'ble members and those who are not irrevocably wedded to the art of criticism for criticism's sake, have suggested that not enough provision has been made for this or that purpose, that while the Budget has gone a little way, it has not gone far enough. Only a few hon'ble members who no doubt took into consideration the realities of the situation have said that on the whole the Budget is not undeserving of appreciation.

Sir, let me at once say that I can fully appreciate all these different viewpoints. In a parliamentary form of Government where there are clearly marked parties and a well-defined opposition, criticism does not always wait on logic. The task of the extreme opposition is to discredit the Government and in this country it may be depended on to perform that task with perhaps more gusto than reason. This is also a cheap means of gaining popularity in one's constituency, for there are some members who seem to believe that the most effective means of serving the interests of the electorate is to pull up a Government continually for real or imaginary misdeeds. So I take this type of criticism for what it is, viz., a part of the difficult game of politics.

As for those who think that the pace of reforms is not quick enough and that not enough has been done in all possible directions, let me at once confess that we do not claim for ourselves infallibility or perfection. It is quite possible that we have somewhat lacked in courage, it is conceivable that we have erred a little in our judgment. But I would ask such hon'ble members never to lose sight of realities. Sir, our miseries are not the creation of this Government, our deficiencies are not the result of a few years' defective policy. It is the accumulated misery of many years that have gone before, the deficiencies are a legacy of many years of halting policy and inadequate resources in the past. The need for reform is spread over so wide a field and is so urgent that I can readily understand the desire of the hon'ble members to see some spectacular improvement and that preferably in the twinkling of an eye. But, Sir, I would ask the hon'ble members to remember that I have not the power of the *jinns* of the Arabian Nights. I do not for a moment claim that the Budget, as we have presented it, is not capable of improvement here and there. It is also possible that another set of Ministers might have thought it proper to spend slightly more money on this head or that. I can appreciate the impatience of the hon'ble members at this necessarily slow process of reconstruction and they are naturally prone to attribute it to the competition and complexion of the present Cabinet, but with due respect may I point out that it is doubtful if the miracle

that hon'ble members would like to see performed, could be achieved even by a cabinet formed of, to mention among others, Napoleon, Confucious, Akbar the Great, Kamal Pasha and other great celebrities. But where in this modest legislature and a complex and rapid age are we to find any such man?

As responsible members of the legislature, we must be realists and having regard to our deficiencies in resources and human material, we cannot afford to fan our optimism with gusto of imagination. If I and my colleagues have not been able to lay down a policy that will galvanise our people into activity and revitalise our social and economic life on every side within the course of a year or so, the question is whether there is any one else who can accomplish this stupendous task within the same time. Because a problem is urgent or because it is put forward with all the vehemence that members can command, it does not follow that it can be solved within the short time that members are willing to concede. That is the crux of the whole question.

We are all moved to anxiety for the man behind the plough. What do we want to do for him? He is illiterate, his methods of cultivation are primitive, the land system encourages sub-infeudation, his holdings are uneconomic, he is, in addition, a fatalist, with an outlook on life that drives him to pathetic resignation. These are defects and deficiencies that we are called upon to remove. We must stimulate his productive activity by which his economic position can be improved. He must be shown what to produce, what crops to sow, not only crops for his own consumption but commercial crops that offer him a fair or better return. He must be led to more scientific methods of production, he must be given facilities for marketing his produce, and he must be provided with credit facilities also. He should be taught not to be extravagant, not to live beyond his means and to adhere to some kind of budget. He must be weaned from the old theory of measuring his income only by money standards. He must learn that his labour is wealth and that he can do many things for himself and the improvement of his lot without dependence on money. Indeed, this is a lesson that many of us would do well to take to heart. For instance, in a country like ours where nature is so bountiful, often the agriculturist can increase or improve the quality of his diet without any added cost to himself if he were only shown how. But to increase the productivity of the land and the man behind the plough, irrigation is necessary. For the marketing of his products and the obtaining of credit facilities he will have to enter the co-operative movement, a movement not imposed on him by Government but accepted and worked whole-heartedly by the *raiyat*, who must be imbued with the true spirit of co-operation. There are numerous other connected problems almost equally formidable. I ask, is it possible to provide fully for all these needs within the course of one or two or even three or four budgets. I do not believe

in the ready-made specifics and patent medicines that some of the hon'ble members have so glibly prescribed. Sir, if merely purchasing steam ploughs could make our ploughmen as productive as their confrères in, say, Canada or Scotland, I can assure the hon'ble members that the Government would not hesitate to purchase them.

Sir, I have heard so much about industrialisation in these discussions that I feel hon'ble members should have a full comprehension of the scope and extent of Government's initiative and interference in this matter. I can hardly think it can ever be the intention of this Legislature that the Government should actually start industries and work them as departments of the Government. That may be possible under a Fascist or a purely Socialist administration. But in a democratic Government, the recognised method, which we are following, is to leave initiative to private enterprise and depend on the Government for assistance in the way of securing capital, providing technical advice, and in other recognised ways. Within the ambit of this general principle, which, I consider, should find general acceptance, let us examine what exactly the Government, and a Provincial Government at that, can do in stimulating industrial development. Khan Bahadur Muazzamuddin Hosain has referred to pioneering industries. I do not know what he exactly means. But I may say this, that the Government has provided for an expert enquiry to examine and report as to what industries should be initiated or stimulated and what should be the ways and means therefor. Hon'ble members should realise that a mere demand that we must industrialize, will not merely by the vehemence with which we voice our demand, lead us far on the road of our objective. Some members have suggested, Sir, that we should start cotton mills, but I think nothing could be more short-sighted or unjustified under present conditions. When there are about a dozen cotton mills already working in Bengal, it would not be desirable on the part of the Government to start another mill and intensify competition. I appreciate, Sir, the great anxiety of hon'ble members to do something, which is no doubt responsible for many suggestions. But I am afraid, Sir, that when we are merely inspired by a desire to do something, without knowing how and what to do, we are mostly apt to do something wrong. This the Government cannot afford to do. I may, however, assure hon'ble members that Government is anxious to do and will do all that is practicable for the development of our industries. I should like to emphasize the viewpoint that there must be private enterprise and initiative to take advantage of any assistance the Government may be prepared to offer. I may cite an instance in which while the Government came to the assistance of private enterprise, there was practically nobody in Bengal to take advantage of this. I am referring to the protection of the sugar industry: while the United Provinces and Bihar utilized the protection to their fullest advantage, starting numerous sugar factories, in Bengal only a few

factories were started on a very small scale. The position in Bengal, Sir, is in a striking contrast to what obtains in Bombay. Will hon'ble members ask themselves how is it that Bombay is so highly industrialized, while Bengal lags far behind, and even in respect of such large industries, she possesses, namely, jute, coal and tea, they are not in the hands of the Bengalis? The answer to a large extent lies in our land system. Permanent Settlement has led people to investment in land to the neglect of investment in industries. Further this attitude of our people has bred an intensely individualistic outlook which makes collective effort so essential to the rearing of big industries and the organization of trade and commerce difficult. As I have said so often this attitude of mind needs to be re-oriented, and I take it that this persistence, although often inchoate, demand for industrialisation is a welcome indication of this slowly changing outlook.

I may say, Sir, that the Government is trying to do all that it can to bring about this re-orientation in our traditional outlook. There are many provisions in the Budget this year for providing an impetus to industry and industrial expansion. The provision for the preparation of schemes for development of large scale industries and extension of cottage industries by an industrial expert is undoubtedly a clear indication that the Government is not merely anxious for the expansion of industry in the province, but is already active about it. Besides, the Government has made adequate provisions for industrial training, technical advice and other facilities such as marketing organizations and publicity service through the organization of exhibitions and museums.

Sir, some hon'ble members have cited the cases of Germany and Japan as models of speedy recovery and swift reconstruction. Comparisons are always odious, and in this instance they are superfluous. Sir, have we in Bengal conditions social, political or economic even remotely resembling those obtaining in either Germany or Japan? Either of these two powers can without any let or hindrance launch a comprehensive scheme for their economic benefit, we cannot do so. Germany with dictatorial control can take swift decisions and make bold experiments. But a democracy must naturally be more timid and slow. Then, Sir, think of the difference in human material, of the disciplined, educated, scientifically trained German masses, and of the ignorant, superstitious, impoverished *raiyats* of Bengal. Is it possible to transform all this in course of a year or two? And we should remember that even Japan did not succeed in a year or two and Nazi haste can hardly be said to have carried Germany economically any further at all.

Sir, it has been suggested that at the root of the slowness of our progress is the lack of efforts towards industrialisation. It has become the vogue to trace all our politico-economic ills to this source. Here

again the instance of Japan is freely cited. But, Sir, industrial revolution such as took place in Japan, and indeed, in most countries a century and a half ago must inevitably be preceded by certain conditions. Do these conditions prevail in Bengal to-day? Apart from other problems connected with a predominantly agricultural country with a peculiar land system, I would like hon'ble members to remember that it is not as easy to satisfy the cry for industrialisation as to raise it. In a competitive and mutually distrustful world where economic nationalism is the avowed policy, industrialisation is no doubt indispensable but it is on those very accounts extremely difficult to achieve. I do not for a moment suggest that we should cease our efforts in that direction but we should be prepared not to expect startling and immediate results.

The fact of the case is, Sir, that our problems being impossible of speedy and immediate solution, we have endeavoured only to lay the foundation stone on which, brick by brick, could be raised a structure which would be worthy of ourselves and our traditions. But to expect that the structure could be raised overnight or that the foundation stone should be as large as the stucture itself, is to expect the impossible. It is impossible to launch mid-stream into our problems and we must observe a certain order or graduation in tackling them. Take for instance free compulsory primary education. The problem is of such a vast extent and so many preliminaries have to be gone through, that even if we had sufficient resources, we could not hope to introduce free primary education successfully in less than four or five years. Similarly agriculture. To introduce scientific agriculture and proper marketing facilities, to bring about improvement of crops, to attempt to raise agricultural prices—this is not a task which one budget can provide for and accomplish particularly in a land of vast illiterate masses, colossal ignorance and tragic fatalism.

These general observations will meet most of the criticisms that have been levelled against the Budget in this House. Sir, it is not possible for me to reply to every point raised by individual members.

I shall therefore confine myself to replying to a few other points raised by some hon'ble members in this House.

I will first turn to the remarks of Mr. Humayun Kabir. I hold him in high esteem for his learning, facility of expression, his independence of views as a thinker, and his generosity of spirit. But in this discussion of the Budget he has not lived up to his reputation.

I realise, Sir, that Mr. Kabir belongs to a group whose mission is to discredit the Ministry, so it may be instinctive for him to criticise all our measures. But even so, I would ask him to base his criticism on facts.

Mr. Kabir has referred to a figure of Rs. 63 lakhs, which according to him is "a surplus after all the liabilities of the province have been

met" and he is so enthusiastic about this Rs. 63 lakhs that he wants to capitalise it for Rs. 20 crores and to utilise this amount for developing the industries of the province and for improving the general condition of the country in other ways. The object is very laudable indeed, but I do not know by what fiscal jugglery Mr. Kabir proposes to transform Rs. 63 lakhs into Rs. 20 crores. Recurring payments can be capitalised, but we cannot transform a single non-recurring sum into a capital figure more than thirty times itself. This Rs. 63 lakhs is a non-recurring item, so its value, whether capitalised or not, is what it is.

Mr. HUMAYUN KABIR: I said you can utilise the surplus in Revenue of a crore to capitalise.

The Hon'ble Mr. NALINI RANJAN SARKER: You said that the Rs. 63 lakhs is the net available surplus after meeting all the liabilities of the province, which is not a fact.

Mr. HUMAYUN KABIR: You have yourself said that the surplus of a crore may be utilised.

The Hon'ble Mr. NALINI RANJAN SARKER: I did not say so (*vide* page 20 of my budget speech) but you said Rs. 63 lakhs. That is why I say you did not understand the position. After all what you have said then is on record. It shows an element of lamentable ignorance on your part to interpret the budgetary items.

Well, it does not form part of the provincial revenue at all. This fat sum of Rs. 63 lakhs does not form part of the provincial revenue. In my printed Budget Statement, at page 20, I have tried to explain the working of the Debt Deposit Section of the Budget to which the Rs. 63 lakhs belongs. It is the balance of the funds deposited with the Government by local bodies. Government have no right to spend them, as these funds do not belong to Government. In the second place, the amount of balance will depend on the extent to which local bodies spend their money in a given year. If they spend more, the balance will be less. It is, therefore, neither a revenue surplus nor a recurring surplus and the proposal to capitalise could not have been made by Mr. Kabir, if he had cared to understand the real implications. So Mr. Kabir's idea of raising a loan of Rs. 20 crores for the expansion of industry and other activities is but a fleeting dream.

According to Mr. Kabir my Budget is definitely planned from the point of view of middle-class unemployment and that while it may mitigate the clamours of those who are politically discontented, it will not relieve the country as a whole. Youthful socialism, I know, looks askance at the more educated, a little less poverty-ridden middle-class in the country. But how can we ignore their existence? The

various provisions in the Budget would necessitate the employment of about 10,000 men, including teachers, doctors, medical attendants, co-operative inspectors, etc., and I ask that if you wish to establish machinery for the improvement of the agriculturist, to whom are we to turn except to educated men of this class? It is not that work has been created merely for the solution of middle-class unemployment (though that is a worthy object in itself), but it is a fantastic idea of Mr. Kabir that we can get along without the services of these men in the upliftment of the agricultural and other classes; the more we extend the social services for the benefit of the people as a whole, the greater must necessarily be the need for utilising the services of the educated classes. Moreover, the middle-classes are not composed of unchangeable elements, for the more the education we provide, the more the infiltration from the lower classes. There is no permanent heirarchy amongst the population and our masses cannot, even to provide food for socialistic outpourings, be condemned to eternal darkness. Indeed the object of social and economic reform must be to lift the masses to a higher status. Sir, I cannot characterise Mr. Kabir's suggestion as anything but absurd, and it surprises one when responsible people held in such high esteem give themselves to futile criticisms like this.

Again, according to Mr. Kabir, the Government has miserably failed in providing for what he considers to be the keystone of the whole arch of provincial improvement, viz., primary education. I have made it clear in my Budget Statement that we are introducing primary education in three or four districts during the budget year. Can this be an indication of miserable failure when Mr. Kabir himself admits that the introduction of free and compulsory education can be a reality only in the course of five or ten years? He is intensely annoyed that we could only provide Rs. 25 or Rs. 30 lakhs in the Budget for primary education, but he overlooks the fact that the educational cess for primary education is a receipt by the various Education Boards in their respective districts and does not find its way into the budget estimates of the province.

Then again Mr. Kabir demands that the salaries of the higher grade officers should be in relation to the standard of life in this province and he has accused me of not seeing to this. His idea is an excellent one but, Sir, I have this quarrel with socialism that we all wish it for others. Are we all prepared to make sacrifices ourselves to bring our emoluments down to a figure which may be said to be in keeping with the standard of the much bemoaned masses? I am sure that it is within the long experience of Mr. Kabir in his own line of work, where the tradition of our land has for centuries been to give education for nothing, that there have been occasions when, in order to

obtain really qualified men the Government were asked to raise considerably the salary originally proposed.

Altogether, Mr. Kabir's remarks on various matters such as jute, agricultural conditions, etc., are so unreal and vague that I doubt whether he has any clear perception of the things on which he ventures to speak, and I am sure that those who know these subjects from personal acquaintance, will hardly take his suggestions seriously. I need not, therefore, waste the time of the House any further in dealing with the arguments of Mr. Kabir.

I next come to the arguments of Mr. Lalit Chandra Das. As an outstanding example of bold planning of which we have so much in this House, I commend the suggestions of a speaker of the opposition benches, Mr. Lalit Chandra Das, couched in the most martial language. "Declare war against illiteracy, poverty and disease.....draw up a war budget.....borrow 50 crores of rupees.....spend 10 crores each year." Sir, I am afraid that Mr. Das has been carried away by the military jargon appropriate to conditions which now obtain in many parts of the globe. Unfortunately a Finance Minister cannot overlook the realities of the situation or essay an easy solution of complex, social and economic problems by mere loose talk. I would like to see Mr. Lalit Chandra Das spending Rs. 10 crores annually on the problems he mentions to any profitable purpose. I have already made it clear that a period of preparation and building up of machinery is necessary before the floodgates of finance can be opened. Further Mr. Das has not told us how we are to get this Rs. 50 crores. He has also not considered whether we have the means to pay the interest on such a huge loan.

Conscious of all these difficulties of raising, and the means of repaying a loan of Rs. 50 crores, Mr. Das has put forward the ingenuous suggestion that the Government of Bengal should borrow the amount from the Central Government, and if Bengal should fail to repay the loan, the Government of India should cancel the debt. Sir, the whole problem is so fantastic and absurd that it is probably a reflection of Mr. Das's simple faith in complex financial matters. Sir, I am prepared to send Mr. Das on deputation to the Central Government with such a proposal and shall wish him all success. But as a responsible Finance Minister, I feel that where Mr. Das has rushed in, we ought to pick our steps more carefully.

Sir, the speech that I delivered on my Budget was very simple, plain and a common-sense speech. I do not, therefore, see why any of the hon'ble members should have occasion to X-ray my observations to understand my Budget or its implications. The Maharaja Bahadur of Santosh undertook by an X-ray examination of my observations to prove to this House that my language was not the vehicle of my thoughts. But I must confess that at the end of his speech I, for one,

did not see that he had proved his proposition. Referring to the question of economic revival, he made certain suggestions and comments from which I was unfortunately unable to get a coherent or connected picture of what was in his mind. His suggestions were isolated and one was unable to see that he had any plan or scheme which he was asking us to consider and adopt. Moreover, many of the items of his elaborate catalogue have been provided for in the Budget, and he would not have complained about these had he cared to read the Budget. As regards the Maharaja's suggestion about a Commission of Enquiry to investigate if adequate protection has been extended to infant industries in Bengal, I need only mention that a Tariff Board has been in existence in India for several years and such investigation is among that Board's usual duties.

There were other suggestions of the Maharaja of the meaning of which I have not been able to form any idea. One such suggestion was that for an investigation as to whether tariff had been put on new industries to an extent which had discouraged the producers. Tariff is imposed on foreign imports generally in order to help and encourage indigenous producers. I cannot, therefore, follow what the Maharaja means when he speaks of tariff on new industries that discourage producers. Certain other proposals of the Maharaja betray, I am afraid, a lack of the sense of proportion. Open-air swimming baths on the models of Sweden or Germany may be one of the Maharaja's favourite schemes, but what Ministry that takes its business seriously could place this in the forefront of its programme for a province like Bengal? Nobody denies that such swimming baths are good things, but there are other fundamental and crying needs which have to be administered to before we can think of luxuries like modern swimming baths.

The Maharaja accuses me of not having bestowed any thought on his idea of reorganising the zemindary system on a co-operative basis within the scope of the Permanent Settlement. His criticisms only show that he has failed to read the sign of the times, for hardly anyone to-day would take seriously a programme for "comprehensive agricultural and industrial improvements on modern and scientific lines" which embraces the Permanent Settlement as its pivot. There was a time when the zemindars were real and accredited leaders and undoubtedly did a great deal for the country and the people. The Government also in those days would often go out of their way to help and protect zemindars: when a zemindar mismanaged his affairs the Government at once came to his help by sending an expert to manage his affairs and even promulgated special enactments to assist him. Government have not in this way come to the rescue of any industrial or commercial undertaking that may be in difficulties. But seeing that even a zemindari is in essence, a business proposition, the Government was not really called upon to help a zemindar in difficulties in this

manner: the zemindars have in fact been receiving a preferential treatment which they can no longer expect. For to-day the Government can no longer give their first attention to the zemindars: that would not be in consonance with the present-day situation or present-day needs. Moreover, reorganisation of the zemindari system on a co-operative basis presupposes some measure of co-operative idealism, whereas it would be difficult to-day to find even two zemindars who are of one opinion. If our zemindars had the spirit of co-operation, they could have done a great deal even unaided and could have continued as trusted and recognised leaders of their people.

The Maharaja, therefore, would be unreasonable if he blames me or any of my colleagues in the Ministry if we cannot consider his scheme seriously. The fault is not with us; for, when the Permanent Settlement itself is in the melting pot and its utility is seriously questioned, any scheme which makes the Permanent Settlement its pivot can hardly be expected to receive preferential consideration or be acceptable to the people.

Sir, I feel I must say a few words on the remarks made by Khan Bahadur Abdul Karim, that on X-ray examination he has found—I find, Sir, the House is full of medical practitioners—that I am suffering from atrophy of the hands and that is why I cannot take up courage in both hands to instal bold schemes of amelioration; and on further analysis he discovered the secret of this atrophy which, according to him, is due to my shaking hands too much with the superior officers of the Secretariat. Sir, if good manners is a disqualification in a Finance Minister, I plead guilty. I admit that I have on numerous occasions felt grateful towards those who give me practical and useful advice rather than preach truisms and platitudes and I have not hesitated to express my gratitude. And as for atrophy, Sir, I am, thanks to the stress of the situation in which I am in, ageing faster than the years and what wonder that the infirmities of age should overtake me. I am yet thankful to Providence that the atrophy has not extended to my brains.

I do not wish to take up the time of the House in dealing with Khan Bahadur's proposal to save me from embarrassment before the Governor and Cabinet meetings. It is hardly germane to a budget discussion. The Khan Bahadur has given me the advice not to go by the age-old maxim of cutting one's coat according to his cloth. Sir, even if we had sufficient cloth, the problem is to cut it. If merely draping it round the body like a shroud would satisfy the Khan Bahadur, he is welcome to all the cloth in our stock.

So far as the suggestion of the Khan Bahadur for the appointment of a Standing Finance Committee is concerned, I can assure him that Government will give serious consideration to his proposal

Then, Sir, I come to the remarks of Dr. Radha Kumud Mookerji, the Leader of the Opposition. He has treated us with a learned discourse. His main contention appears to me that Bengal has not secured financial justice at the hands of the Centre. While we all are anxious to increase our revenues, hon'ble members are aware that the Niemeyer Settlement has rectified in some measure the gross iniquity of the Meston Award. The Government of Bengal did not receive all that they pressed for, but still substantial relief was afforded by the Niemeyer Award. Further, all the arguments now put forward by Dr. Mookerji had already been advanced by the Government of Bengal in its fight to secure financial justice for Bengal. And the result was the Niemeyer Award, which, although it has not satisfied us fully, has brought us substantial relief. Unless any new arguments can be put forward, I do not think it will help us much in our efforts to press for any fresh demands.

Dr. Mookerji has said that the Federation is the worst enemy of this province. I do not exactly follow what he means thereby. I think the hon'ble member has the Niemeyer Settlement in his mind. But the distribution of sources of revenue between the Central and Provincial Government has already been fixed by the Government of India Act, 1935, and the starting of the Federation is not in any way calculated to affect the distribution. Modification of the distribution means the modification of the Government of India Act. It cannot be called a fight against the establishment of Federation.

Then, Sir, my friend Dr. Arabinda Barua has pressed the claims of his community in a very impressive manner. I can assure him that the educational needs of his community will receive attention from Government.

To-day, our Deputy President, Mr. Hamidul Huq Chowdhury, has criticised the Budget. He has made, Sir, my task very light, because he has himself pointed out to you the difficulties of carrying out reforms overnight. He has complained that in the Budget Estimate we have not given the plan of what we intended to do throughout our term of office, but, Sir, it is not usual to put things in the Budget beyond the budget year. It is the usual custom to compare the budget year with previous years, but nobody up till now has devised the means of putting the future years in the Budget Statement. So, if Mr. Hamidul Huq Chowdhury, or any other member, has not found the details of our policy in the Budget, I think the Budget should not be blamed for that. If hon'ble members want to discuss with us the programme which we want to follow during our term of office, I will communicate this desire to the Hon'ble Chief Minister, and for that purpose, if necessary, a meeting of the Council can be called when all the items can be discussed.

My friend Khan Bahadur Saiyed Muazzamuddin Hosain has referred to the report of the Agricultural Commission. He also made a grievance that we have no policy. If the report of the Agricultural Commission is an indication of the things which he wants us to do in our turn, I can tell him without divulging any secret that the author of that Agricultural Commission Report has thoroughly approved the programme we have prepared for our Agricultural Department, a copy of which the Khan Bahadur has himself seen already.

Sir, I hope I have not conveyed the impression to hon'ble members that I am an utter pessimist. I have merely indicated our difficulties which are undoubtedly numerous. I would like hon'ble members to remember that we are also representatives of the people and like themselves we are also eager to enlarge our ameliorative and constructive measures as much and as quickly as possible. But we must observe a certain order of graduation and consecutiveness. I have only pleaded the necessity of carefully co-ordinating our efforts in various directions and urged that results cannot be obtained in a trice. We should visualise the whole picture, of agriculturists, merchants, and artisans, landlords and tenants, zemindars and *raiyats*—all dependent on one another and each playing his part in contributing to the national wealth. We have now but the crude materials with which to draw the picture but we have spread the canvas and arranged the colours in order. But we cannot hope to see it completed, framed and hung up in an inordinately short time.

By the very nature of things, we cannot emphasise too strongly the needs of any one class. The *raiyats*, must, it is true, be afforded relief. But he needs tools for which we must have artisans, he wears clothes for which we must have weavers, he produces crops which must be marketed by merchants. Similarly the artisans, weavers and merchants must depend on the *raiyat* for producing crops for their sustenance and business. In this way there is a chain of co-related activities and our effort should be to strengthen the chain at every link. It is a stupendous task but we must boldly face it.

Sir, we have begun the task with faith in our hearts and in the hope that with co-operation and help from all concerned the task will prove less onerous than it now appears. We have already done a little in many directions but as the press is antagonistic to us not much of it has come to light. While in another province a grant of Rs. 2,000 to a public library would be hailed as a concerted drive to remove mass illiteracy, the attempt to introduce free primary education in four districts is here condemned as a halting and timid policy. But, Sir, we shall not hesitate to do our best despite the hostility of the press and

irrespective of the frowns or favours of our critics. We can all but do our best, we cannot do more.

Adjournment.

The Council then adjourned till 2-15 p.m. on Wednesday, the 2nd March, 1938.

Members absent:

The following members were absent from the meeting held on the 1st March, 1938:—

(1) Ahamed, Mr. Nur.
(2) Chowdhury, Mr. Humayun Reza.
(3) Datta, Mr. Bankim Chandra.
(4) Dutta, Mr. Kamini Kumar.
(5) Ismail, Khwaja Muhammad.
(6) Goswami, Mr. Kanai Lal.
(7) Hossain, Mr. Muhamed.
(8) Jan, Khan Bahadur Shaikh Muhammad.
(9) Laidlaw, Mr. W. B. G.
(10) Lamb, Mr. T.
(11) McFarlane, Mr. J.
(12) Mookerjee, Mr. Naresh Nath.
(13) Mookerji, Dr. Radha Kumud.
(14) Ormond, Mr. E. C.
(15) Shamsuzzoha, Khan Bahadur M.
(16) Sinha, Rai Bahadur Surendra Narayan.
(17) Wilmer, Mr. D. H.

B. G. Press—1938-39—98A—900.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 2nd March, 1938, at 2-15 p.m., being the eighteenth day of the First Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Discussion on questions remaining unanswered.

Mr. NARENDRA CHANDRA DATTA: Mr. President, Sir, the Hon'ble Finance Minister promised yesterday to make a statement to-day with regard to the answering of my questions, and I want an answer to them to-day.

Mr. PRESIDENT: Order, order. The Hon'ble Mr. Nalini Ranjan Sarker said yesterday that he could not reply off-hand to the enquiries made by Mr. Narendra Chandra Datta, and he promised to do so to-day after an enquiry. Will any Hon'ble Minister for the Government please answer the question raised yesterday?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Unfortunately he is not here just now, I am sure when he comes, he will try to answer the question.

Mr. PRESIDENT: The question was not particularly put to the Hon'ble Mr. Nalini Ranjan Sarker as Finance Minister; it was put to the Government. I have held already that there should be a Leader of the House, and I have repeatedly pointed out to the Government that there must be somebody responsible on behalf of the Ministry to represent Government's viewpoint in this House.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: What is the point, Sir?

Mr. PRESIDENT: The point was raised by Mr. Narendra Chandra Datta about questions not being answered when they were due. The Hon'ble Mr. Nalini Ranjan Sarker said yesterday "I cannot off-hand give any reply; I will make an enquiry and shall give our replies to-morrow," and he is not even present here. It is clear discourtesy to the House.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I apologise on behalf of the Government. We do not mean any discourtesy to this House, and the Government are always respectful to the feelings and sentiments of this House, as regards the questions, I can also assure the House that every effort is being made to answer the questions.

Mr. PRESIDENT: That is not the point at issue. The Hon'ble Minister does not know all the facts. Some of the questions are not being answered though they are due for a long time. The Hon'ble Finance Minister promised to make an enquiry about the delay. I personally made an enquiry and I have a list prepared to show that there are several questions remaining unanswered for a long time. The whole list is here. There is a question of Mr. Kamini Kumar Dutta that has been carried over from the last session. The date of despatch of the notice of the question to the Administrative Department was 16th September, 1937. It was an enquiry about a detenu Mr. Keshab Prasad Sarma and was due for answer on the 24th of January last. I understand from the office that the answer has reached only to-day. There is another question of Mr. Narendra Chandra Datta. Notice was despatched to the Administrative Department on the 6th of January. It was due for answer on the 24th of January. Another question of Mr. Kamini Kumar Dutta of which notice was despatched on the 4th of January, and another from Mr. Moazzemali Chaudhury on the 10th and another from Mr. Narendra Chandra Datta, on the 15th. This list of questions was due to be answered long ago. Why are these questions not answered in due time? Of course, the Hon'ble Ministers are not bound to answer questions. They will be within their rights if they say they will not answer the questions, but even then, they will have to say so in due time. But the Hon'ble Finance Minister promised to make an enquiry and inform the Council the reasons for the delay to-day but he is not even present in the House, nor has he instructed any other Minister to answer on his behalf. It is the duty of the Ministry to see that somebody is here to represent the Ministry. That was the reason why I demanded that there must be a Leader of the House to represent the Ministry. For the enlightenment of the Government about the necessity and functions of a Leader of the House, I shall presently quote from Redlich, Volume III, page 23——

"'Leader of the House' is the technical description of the Chief Minister of the Crown for the time being in the House of Commons.

The Prime Minister, if he is a Commoner, or, if he is a Peer, the First Lord of the Treasury or the Chancellor of the Exchequer, is Leader of the House of Commons and exercises the functions of that post as if they belonged to the Government." That makes it clear that if the Prime Minister happens not to be a member of the House of Commons then somebody else either the Lord of the Treasury or the Chancellor of the Exchequer is the Leader of the House.

Further on: "The influence is directly exercised by the Leader of the House on the course of business. It is his task in the name of the Government and the Party in office to distribute over the session the programme of legislation announced in the King's speech and advocate it in the House.....With regard to the Government project the Leader is the final authority as to its general progress, as to the time to be given to its different stages, as to any application of the closure or other available method of shortening debate or bringing matters to a conclusion."

The Chair has felt the want of a Leader of the House who may take the responsibility on behalf of the Government to answer these matters that arise from time to time.

As regards this particular matter, will Sir Nazimuddin please state why Mr. Nalini Ranjan Sarker who promised yesterday to be present in the House to-day, is absent and will he kindly state the reasons why these questions were not being answered to-day?

The Hon'ble Khwaja Sir NAZIMUDDIN: I am very sorry. I believe he will be here in a very short time. He must have been unavoidably detained.

Mr. PRESIDENT: I shall wait till he comes, and as soon as he comes I shall take up this matter again. In the meantime you would please send for him.

Order, order. Questions. Mr. Naresh Nath Mookerjee.

Release of detenus in village domicile.

191. Mr. RANAJIT PAL CHOUDHURY (on behalf of Mr. Naresh Nath Mookerjee): Will the Hon'ble Minister in charge of the Home Department be pleased to state, if in pursuance of the declaration made by the Hon'ble Minister in this House on the 16th August, 1937—

(*a*) all the detenus in village domicile from three to six months have been released;

(*b*) if not, why not;

(*c*) if the answer to (*a*) be in the negative, whether they have not been released on account of any reports of the Police against them; and

(*d*) if the answer to (*c*) be in the affirmative, whether the detenus have been informed of the allegations or given any opportunity to explain their position?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) No.

(*b*) and (*c*) The terms of the declaration to which the hon'ble member refers have been scrupulously followed but in some cases Government were satisfied that it was undesirable to proceed with relaxation or release until a further period had elapsed.

(*d*) The provisions of section 9 of the Bengal Criminal Law Amendment Act, 1930, have been observed.

Judgment (Election Tribunal) in the case of Maulvi Habibur Rahaman vs. Nawab Sir K. G. M. Faroqui.

192. Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether his attention has been drawn to the judgment of the Election Tribunal regarding Maulvi Habibur Rahaman *vs.* Nawab Sir K. G. M. Faroqui;

(*b*) whether the Hon'ble Minister proposes to alter, add or modify the rules of election, so that the gross corrupt practices referred to therein may be prevented in future; and

(*c*) whether the Government propose to frame rules so that a Minister who employs Government servants or the servants of any public or local bodies in his election may be punished?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Yes.

(*b*) and (*c*) The matter is under consideration.

Mr. NARENDRA CHANDRA DATTA: When may we expect the result of the decision of the Government?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, the case or rather the judgment, as the hon'ble members know, covers a very large number of pages and what is more, it raises most intricate and difficult questions which require careful consideration and examination, and it is not possible for Government to take up the consideration of these questions

while the session of the Legislative Assembly and the Council is on. Government propose to take up the consideration of these after the session is over, and will try to come to a decision as soon as possible.

Mr. HAMIDUL HUQ CHOWDHURY: Has the attention of the Government been drawn to those parts of the judgment in which allegations have been found to be true in respect of certain officers of the Government, and does the Government intend to take any action in the matter?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, as I have said, the Government have not yet taken into consideration the whole judgment, and it is very difficult to make any statement whatsoever until the whole thing is carefully considered.

Mr. HAMIDUL HUQ CHOWDHURY: Will the Government give an opportunity to this House when they have come to a decision, to discuss the points raised in the judgment?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I submit that this is a hypothetical question in view of the fact that the decision of the Government may be of such a nature that there may not be any necessity for a discussion at all.

Political prisoner Babu Dhanes Chandra Bhattacharyea.

193. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*i*) whether Babu Dhanes Chandra Bhattacharyea of Kayetpara, police-station Rupganj, district Dacca, a political prisoner, died in the Midnapore Central Jail on 25th December last;

(*ii*) what his death was due to—if his death was sudden?

(*b*) Will the Hon'ble Minister be pleased to lay on the table a copy of the history sheet of his illness to his death?

(*c*) Is it a fact that his brother Babu Dinesh Chandra Bhattacharyea addressed the Superintendent of the Midnapore Jail on 2nd December, 1937, enquiring about the details of the health of the aforementioned Dhanes Babu?

(*d*) Is it a fact that the Superintendent supplied no details but after twelve days, i.e., on 14th December, 1937, replied and in that reply simply assured Dinesh Babu that his brother was receiving proper and adequate treatment?

(*e*) Will the Hon'ble Minister be pleased to state why the Superintendent gave no details of Dhanes Babu's illness to his brother then?

(*f*) Is it a fact that Dinesh Babu wrote again on 16th December, 1937, and wanted to know if the disease of his brother Dhanes was increasing day by day or decreasing?

(*g*) Is it true that on 21st December last the Superintendent in reply informed Dinesh Babu that Dhanes recovered and was taking his food all right?

(*h*) Whether the Superintendent wired to Dinesh Babu on the evening of 25th December, 1937, while Dhanes was on the point of death that Dhanes had fallen suddenly seriously ill, and whether the Superintendent wired again the next morning that he was no more?

(*i*) What was that sudden illness due to, who treated him—was he treated by injection?

(*j*) Will the Hon'ble Minister be pleased to enquire if in the matter of handling and treatment of this case and in the matter of giving timely intimation with proper details to the relatives of the deceased the jail authorities were guilty of remissness and grave dereliction of duty?

(*k*) Whether on the morning of 26th December, 1937, Joges Babu, a brother of the deceased, immediately after the receipt of the death news of Dhanes wired to the Superintendent not to cremate the body before his arrival informing that he was starting immediately?

(*l*) Whether Joges Babu left for Midnapore on 26th December, 1937, by the Calcutta Mail?

(*m*) Whether the dead body of Babu Dhanes Bhattacharyea was cremated? If so, when and by whom?

The Hon'ble Khwaja Sir NAZIMUDDIN: With your permission, Sir, I propose to answer question Nos. 193 and 194 together.

The attention of the hon'ble members is invited to the Press note issued by Government on the 14th February last on the death of prisoner Dhanes Bhattacharyea, a copy of which has been placed on the Library table.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to enquire if in the matter of handling and treatment of this case and in the matter of giving timely intimation with proper details to the relatives of the deceased, the jail authorities were guilty of remissness and grave dereliction of duty?

The Hon'ble Khwaja Sir NAZIMUDDIN: I submit, Sir, that this is a question of opinion, and it is an opinion with which Government do not agree.

Mr. LALIT CHANDRA DAS: Sir, my question is whether the Hon'ble Minister will be pleased to enquire, and I submit, Sir, it is not a matter of opinion.

The Hon'ble Khwaja Sir NAZIMUDDIN: I submit, Sir, that this is a request for action and not for furnishing information.

Mr. PRESIDENT: Sir Nazimuddin, I have already held—and I have quoted authorities to show—that so far as questions are concerned, requests for action have also to be complied with, since such requests are made for the purpose of eliciting information.

The Hon'ble Khwaja Sir NAZIMUDDIN: I am sorry, Sir. There was another ruling in another place, and I confused the two.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be now pleased to state whether he will enquire into the matter I have referred to already?

The Hon'ble Khwaja Sir NAZIMUDDIN: I will look into this question, Sir.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether on the morning of the 26th December, 1937, Joges Babu, a brother of the deceased, immediately after the receipt of the death news of Dhanes Babu wired to the Superintendent not to cremate the body before his arrival informing that he was starting immediately?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have nothing further to add to what has already been stated on this subject in the communiqué.

194. Mr. NARENDRA CHANDRA DATTA: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if he is aware that one Babu Dhanes Bhattacharyea died suddenly in Midnapore Jail?

(*b*) If so, was any timely information sent to the near relations of the deceased and were they allowed to visit him in time and to make arrangement for medical treatment, if thought necessary?

(*c*) What was the disease of which Babu Dhanes Bhattacharyea died?

(*d*) Does the Hon'ble Minister propose to make a sifting public enquiry by a committee consisting of members of this Council about the whole affair relating to his death?

(*e*) If not, how does the Hon'ble Minister propose to remove misapprehensions about the causes of the death of Babu Dhanes Bhattacharyea from the mind of the public.

(*Vide* answer to Council question No. 193.)

Public Grievances Bureau.

195. Rai BROJENDRA MOHAN MAITRA Bahadur (on behalf of Mr. H. P. Poddar): (*a*) Has the attention of the Hon'ble Minister in charge of the Home Department been drawn to the fact that the Government of Sind have set up a Public Grievances Bureau whose task will be to remove corruptions from all Government departments?

(*b*) Is the Hon'ble Minister considering the desirability of setting up a similar Public Grievances Bureau in Bengal?

(*c*) Will the Hon'ble Minister be pleased to state the exact number of cases of theft, burglary, dacoity and highway robbery that were committed in Bengal in 1937?

(*d*) Will the Hon'ble Minister be pleased to state in how many of these cases the criminals were detected and punished?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) and (*b*) No.

(*c*) and (*d*) A statement is laid on the table.

Statement referred to in the reply to question No. 195.

1937.	Number of cases reported.	Number of cases tried.	Number of cases ending in conviction.
Theft	19,931	5,938	5,139
Burglary	23,861	2,040	1,630
Dacoity	636	157	89
Highway robbery	79	27	16

Examination of the Calcutta University.

196. Rai BROJENDRA MOHAN MAITRA Bahadur (on behalf of Mr. H. P. Poddar): (*a*) Will the Hon'ble Minister in charge of the Education Department please state if there is any rule in the Calcutta University that a student failing in one or two subjects, in

his Matriculation, Intermediate, Commerce, Degree or Law Examinations, is required to appear in all the subjects when he appears at such examinations for the second time?

(*b*) Are the Government aware of the hardships caused to the plucked students due to the existence of such a rule?

(*c*) Do the Government propose to move the Calcutta University to amend their rules so as to hold a supplementary examination every year for such candidates allowing them to appear only in such subjects in which they failed previously?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Minister in charge of the Education Department): (*a*) Yes.

(*b*) No.

(*c*) No. The initiative in such matters lies with the Senate of the Calcutta University.

Confidential allowance in the Bengal Government Press.

197. Mr. MOAZZEMALI CHAUDHURY (on behalf of Mr. Humayun Kabir): (*a*) Is the Hon'ble Minister in charge of the Finance Department aware that since the introduction of the piece system in the Bengal Government Press till 1912 there was no system of paying confidential allowance to the employees of the said Press?

(*b*) Is it a fact that after 1912 the "Confidential allowance" was introduced at the rate of 50 per cent. of the earnings of the employees?

(*c*) If so, what was the total cost incurred for the said purpose in the year 1935-36?

(*d*) Is it a fact that in 1920 a general increment of 40 per cent. was granted to all the employees of the Press and the employees of the Confidential Section retained the 50 per cent. allowance over and above the 40 per cent. general increment?

(*e*) Is it a fact that the nature of work done in the Confidential Section is of the same nature as that done in the general sections requiring no special intelligence, or skill or labour?

(*f*) If so, will the Hon'ble Minister be pleased to state whether he proposes to stop the said allowance?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Minister in charge of the Finance Department): (*a*) Yes.

(*b*) Yes; 50 per cent. in the case of piece-workers, and fixed amounts in the case of others.

(*c*) Rs. 12,742.

(*d*) Yes.

(*e*) The work in the Confidential Section demands intelligence, skill and special reliability.

(*f*) The justification for the continuance of these allowances is under examination.

Contribution of the Bengal Government to the Ranchi Indian Mental Hospital.

198. Rai BROJENDRA MOHAN MAITRA Bahadur (on behalf of Mr. H. P. Poddar): (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state what is the annual contribution of the Bengal Government to the Ranchi Indian Mental Hospital?

(*b*) Are the patients from Bengal accommodated there with reference to her corresponding financial support?

(*c*) Are there any seats reserved for the patients from Bengal?

(*d*) Is it a fact that there are no free beds in the higher classes to accommodate *bhadralog* patients of scanty means?

(*e*) Is it a fact that seats are not always available for the patients from Bengal?

(*f*) If so, do the Government propose to examine the matter to see how far this is justified?

(*g*) Is it a fact that treatment in the European Mental Hospital is different from that of the Indian one?

(*h*) Are there any arrangements to invite experts from Europe periodically for examining the patients at Ranchi?

(*i*) Will the Hon'ble Minister be pleased to state why physicians from other parts of India are not mutually transferred to the said hospital?

MINISTER in charge of the PUBLIC HEALTH and LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Syed Nausher Ali): (*a*) to (*c*) The contribution paid by the Government of Bengal annually towards the cost of the Ranchi Indian Mental Hospital is not a fixed sum but varies with the actual expenditure incurred on the hospital in different years. The contribution represents three-fourths of the net expenditure of the hospital and three-fourths of the total accommodation for patients in the institution is reserved for patients

from Bengal. The contributions paid in the last three years were as follows:—

				Rs.	A.
1936-37	...	...	...	3,41,146	12
1935-36	...	...	...	3,29,670	10
1934-35	...	...	...	3,21,030	10

(*e*) and (*f*) Yes, this occurs only when no seats are vacant.

(*d*), (*g*), (*h*) and (*i*) The information is not available in the Secretariat. A reference has been made to the Superintendent of the Ranchi Indian Mental Hospital. The information will be furnished to the hon'ble member as soon as materials are available.

Mr. RANAJIT PAL CHOUDHURY: With reference to the last sentence of the answer, will the Hon'ble Minister be pleased to see that a copy of the answer received is laid on the Library table, so that all members may know the result of the reference?

The Hon'ble Mr. SYED NAUSHER ALI: Sir, this matter is, I understand, the subject of communication with your department—I mean to say as to how these answers have got to be furnished, and as soon as the procedure is finally settled, I will act according to the directions of the Hon'ble the President.

New hands in the Bengal Government Press.

199. Mr. RANAJIT PAL CHOUDHURY (on behalf of Mr. Shrish Chandra Chakraverti): Is the Hon'ble Minister in charge of the Finance Department aware that new hands have been taken in the Bengal Government Press; if so, will the Hon'ble Minister be pleased to state—

(*a*) the number of employees taken in together with their names, the department in which they have been taken in, the experience and practical knowledge, if any, possessed by them;

(*b*) whether there were many applications from amongst the retrenched and the reduced hands and whether some of them were interviewed, and, if so, how many of them have been taken; and

(*c*) if none of them have been taken, what are the reasons for refusing to accept them?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Minister in charge of the Finance Department): (*a*) A statement showing the names of new entrants since the 1st April last, and the work to which they were put, is laid on the Library table. There is no record of the experience and practical knowledge which they possessed when appointed, but I am informed that they were all tested and examined before being engaged.

(*b*) and (*c*) There were a few applications from reduced hands. Two were appointed, and the others were not considered good enough for re-employment.

Sporting Club in the Bengal Government Press.

200. Mr. RANAJIT PAL CHOUDHURY (on behalf of Mr. Shrish Chandra Chakraverti): (*a*) Is the Hon'ble Minister in charge of the Finance Department aware of the fact that there is a sporting club in the Bengal Government Press?

(*b*) Is the Hon'ble Minister aware that all the printing matters of the sporting club are printed in the Bengal Government Press; if so, under what budget head are such expenditure debited?

(*c*) Will the Hon'ble Minister be pleased to lay a statement showing the amount of such printing costs incurred during the last three years, year by year?

(*d*) Is it a fact that any collection of subscriptions on the part of a Government servant or to take signature for that purpose from other Government servants is prohibited under the Government Servants' Conduct Rules?

(*e*) Is it a fact that industrial employees of the Bengal Government Press are forced to give their consent and compulsory deductions are made from their pay by way of subscriptions to the sporting club; if so, will the Hon'ble Minister be pleased to state what action has been taken or intended to be taken in the matter; if not, why not?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Minister in charge of the Finance Department): (*a*) Yes.

(*b*) Yes. The cost is very small and spread over several heads of the budget.

(*c*) No accounts of this particular expenditure have been kept.

(*d*) I can find nothing in the Government Servants' Conduct Rules to this effect but, of course, no Government servant ought to use threats for collection of subscriptions.

(*e*) My information is that payment of subscriptions to the sporting club is optional and that no compulsion is ever used in this matter.

Speech on the Bengal Land Revenue Interest Bill.

201. Rai MANMATHA NATH BOSE Bahadur (on behalf of Raja Bhupendra Narayan Sinha Bahadur, of Nashipur): (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to refer to the speech made on the floor of the Council House on the 30th July, 1935, by the then Hon'ble Member in charge of the Reveuue Department in connection with the Bengal Land Revenue Interest Bill and state whether it was not distinctly stated therein that there was no distinction made between the penalty and the interest?

(*b*) Will the Hon'ble Minister be pleased to state whether the words "the interest or the penalty" had been used in the said speech?

(*c*) Is it a fact that the penalty only have been charged from the defaulting zemindars and no interest had been charged before the passing of the Bengal Land Revenue Interest Act?

(*d*) Is it a fact that the penalty which was charged from the defaulting zemindars, depends for its sanction upon an order of the Board of Revenue of 1909 and not on any law?

(*e*) Is it a fact that it was admitted in reply to my starred question No. 83 of 23rd March, 1935, by the then Hon'ble Member in charge of the Revenue Department and to put the whole matter on a legal basis that the Land Revenue Interest Act, 1935, was enacted?

(*f*) If so, will the Hon'ble Minister be pleased to state as to how far the Board's order regarding the realisation of the penalty has been affected by the Land Revenue Interest Act?

(*g*) Will the Hon'ble Minister be pleased to state whether the said Act of 1935 has not abrogated and nullified the order of the Board of Revenue of 1909?

(*h*) Will the Hon'ble Minister be pleased to state if the Government contemplate to bring an amendment Bill of the Bengal Cess Act to reduce the rate of interest charged for arrears of cess; if so, by how much it is proposed to reduce the rate of interest?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) No.

(*b*) and (*c*) Yes.

(*d*) Yes, but the penalty is not illegal.

(*e*) Not exactly. It was the levy of interest, not the levy of penalty. which required to be put on a legal basis.

(*f*) Both interest and penalty may now be charged, the charge of interest being obligatory under Act 17 of 1935. In practice, however, penalty is levied in addition to interest only from habitual defaulters.

(*g*) No.

(*h*) This matter is under the consideration of Government.

Mr. PRESIDENT: Order, order. I have up till now allowed hon'ble members to put questions standing in the names of other hon'ble members who are absent, but, in future, I shall be strict. Hon'ble members who are not likely to be present on a particular day should intimate to the Chair requesting for permission that their questions may be put by another member. It is to be regretted that a large number of members who give notices of questions are often absent.

Mr. NAZIRUDDIN AHMAD: May I, Sir, submit a particular kind of inconvenience from which we suffer? We do not know when replies to our questions will be ready, and so we cannot anticipate that replies will be given to our questions on a particular day.

Mr. PRESIDENT: Hon'ble members will please note that now special provision has been made to the effect that long before the questions are ready for being replied to in the House, members get intimation of the date on which these questions will be answered. Printed copies of the questions are now circulated beforehand to hon'ble members under the new arrangement.

Mr. RANAJIT PAL CHOUDHURY: Sir, since you have been pleased to give your ruling on this matter, are we to take it that it will apply equally to Hon'ble Ministers as well?

Mr. PRESIDENT: The question is quite different, so far as the Hon'ble Ministers are concerned. All questions are put to the Government, and any one particular Minister need not necessarily answer any particular question.

Mr. RANAJIT PAL CHOUDHURY: But so far as to-day is concerned, may I have your permission to put this question?

Mr. PRESIDENT: Yes, you may do so.

Annual estimate on the jute crop.

202. Mr. RANAJIT PAL CHOUDHURY (on behalf of Mr. Naresh Nath Mookerjee): (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state what

are the methods employed by the Government to secure the annual estimate on the jute crop?

(*b*) What is the total expenditure involved therein?

(*c*) Is the Hon'ble Minister aware that the annual jute forecast published by the Government is of vital importance to the trade?

(*d*) Is it a fact that such reports as published by the Government, particularly during the last five or six years, have been approximately 20 per cent. less than the actual turn-out of the crop?

(*e*) If so, is it a fact that in consequence of such inaccuracy very large losses have been sustained by both merchants and growers?

(*f*) Is the Hon'ble Minister aware that the Government jute forecast now does not carry any confidence among merchants both here and abroad?

(*g*) Will the Hon'ble Minister please state what steps he proposes to take this year to secure a more accurate estimate of the jute crop?

(*h*) Will the Hon'ble Minister be pleased to lay on the table a short statement giving the forecast of the jute crop as published by the department during the past five years and also, if possible, a parallel statement showing the actual out-turn during these same periods?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) A note has been placed on the Library table.

(*b*) Rs. 3,400 approximately.

(*c*) I am aware that an accurate forecast would be of very great benefit to the trade and is a vital necessity to Government before any practicable methods for compulsory regulation of the crop can be properly considered.

(*d*) The figures for the past five or six years are given in the statement in answer to paragraph (*h*) of this question. The hon'ble member may make his own calculations therefrom.

(*e*) No.

(*f*) I believe that is so.

(*g*) The department in collaboration with the Central Jute Committee have been actively engaged in exploring possible methods for improving the forecast. Experiments have been carried out recently to ascertain what methods are practicable and reasonably accurate. The results of those experiments are now being tabulated. When those results have been considered by Government and by the Central Jute Committee the exact methods to be adopted will be decided on and Government have made provision for a lump sum of Rs. 1 lakh in next year's budget for carrying out, with the assistance of the Central Jute

Committee, a jute survey or census by the methods considered most suitable for the purpose of improving the forecast.

In addition, the Director of Agriculture has recently met a large number of trade representatives and asked for their co-operation in improving the accuracy of the forecast. This co-operation has been promised.

(*h*) A statement is laid on the table.

Statement showing the forecast as published by the Agriculture Department and the trade figures during the past five years referred to in answer to part (h) of question No. 202.

CONSOLIDATED FORECAST FOR BENGAL, BIHAR, ASSAM AND ORISSA.

	Forecast figure.	Trade figure.
	Bales.	Bales.
1932-33 ..	5,844,600	8,530,800
1933-34 ..	7,933,200	8,520,600
1934-35 ..	7,963,800	9,830,774
1935-36 ..	6,396,700	8,182,400
1936-37 ..	8,735,800	10,741,400
1937-38 ..	8,617,700	Not yet available.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state if it is a fact that the present method of calculating the forecast of jute is done by village union board chaukidars?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Not by village union board chaukidars but by the panchayats.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state whether this forecast is published for the benefit of the producer or the seller, i.e., the agriculturist or the purchaser?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: What generally happens is that its publication helps calculation of loss and gain in speculation.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state if it is for helping the speculators?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: No, it is not so exactly.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Then for whose benefit are the figures collected?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: These figures are collected for the purpose of trade.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state if the figures are collected for the benefit of the agriculturist or for the benefit of the purchaser?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: The figures are collected for the benefit of the cultivators as well as for the buyers.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state if the figures of demand for jute also are collected?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Not at present.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state if it is not necessary for the agriculturist to know what is the requirement of the buyer just as it is necessary for the buyer to know the amount of production?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I am already going into the matter to find out the best method of giving information to the jute cultivators as to the accurate demand for jute so that they may be benefited by growing only that amount of jute.

Rai KESHAB CHANDRA BANERJEE Bahadur: Will the Hon'ble Minister be pleased to state if an enquiry has been held by Government to find out why the forecast has so long been inaccurate?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: It was unfortunate: this question ought to have been put to the late Government which were responsible for it.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state if Government will consider the necessity of obtaining figures of jute requirements?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: As I have already stated, I am trying to give accurate figures to the cultivators so that they may know the actual state of the market.

***Rai KESHAB CHANDRA BANERJEE Bahadur:** Will the Hon'ble Minister be pleased to state what method is going to be adopted by Government in order to ensure the accuracy of the forecast?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: The method to be adopted by Government will be on the advice of experts.

The Revenue of the Calcutta Improvement Trust.

203. Mr. HAMIDUL HUQ CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state, item by item, what was the revenue of the Calcutta Improvement Trust in the year 1936-37 collected under different sections of the Act, the amount of revenue derived under each section, viz., 82, 83, 84 and 88 of the Act, being shown separately?

(*b*) What is the existing amount of the loan of the Board?

(*c*) What is the total value of land in the hand of the Tribunal at the end of the financial year 1936-37?

(*d*) To what extent have one of the original purposes of the Act, namely, "rehousing of persons of the poorer and working classes displaced by execution of improvement schemes and otherwise" been fulfilled?

(*e*) What are the exact number of houses, if any, erected in furtherance of the said object?

(*f*) If no such house has yet been erected, what steps does the Hon'ble Minister intend to take to enforce the same?

The Hon'ble Mr. SYED NAUSHER ALI: (*a*) Full particulars will be found in pages 78-80 of the Annual Report of the Calcutta Improvement Trust for the year 1936-37, a copy of which is laid on the Library table.

(*b*) Full particulars will be found in the statutory statement of accounts of the Sinking Funds for the year 1936-37 published on page 107 of supplement to the *Calcutta Gazette*, dated the 3rd February, 1938, under section 103 of the Calcutta Improvement Act, a copy of which is placed on the Library table.

(*c*) The Tribunal holds no land. The assets of the Trust in surplus land available for disposal were estimated on the 31st March, 1937, to amount to Rs. 2,00,00,000.

(*d*) and (*e*) A statement is laid on the Library table.

(*f*) Does not arise.

Mr. HAMIDUL HUQ CHOWDHURY: With reference to (*d*), in view of the fact, as appears from the statement, that a sum of Rs. 8 lakhs and odd thousand has been spent for the rehousing of persons of the poorer and working classes, will the Hon'ble Minister be pleased to state if Government have been satisfied that the original purposes of the Act, viz., "rehousing of persons of the poorer and working classes displaced by execution of improvement schemes and otherwise" have been fulfilled; if not, are the Government prepared to reopen and re-examine the question?

The Hon'ble Mr. SYED NAUSHER ALI: So far as the first question is concerned, it is a question of opinion, and necessarily the second question does not arise.

Mr. HAMIDUL HUQ CHOWDHURY: Is it a question of opinion that whereas the Calcutta Improvement Trust have acquired Rs. 40 crores worth of land mostly belonging to the poorer classes, they have spent only about Rs. 8 or Rs. 10 lakhs for those classes of people who have been displaced——

Mr. PRESIDENT: The hon'ble member should know that the right of putting supplementary questions should not degenerate into argument and cross-examination.

Mr. HAMIDUL HUQ CHOWDHURY: But, Sir, when the answer is of the nature of shirking the real fact, am I not entitled to find out the real fact by cross-examination?

Mr. PRESIDENT: Even then, cross-examination will not be allowed.

The Hon'ble Mr. SYED NAUSHER ALI: I may say, Sir, that this problem has attracted my attention and I myself went down to see what the real state of things is, and I may assure the House that I will look into the matter.

Non-official Motion under section 118 of the Rules and Standing Orders regarding the construction of a separate building for the Bengal Legislative Council.

Begum HAMIDA MOMIN: Sir, I beg to move that an address be presented through the President, Bengal Legislative Council, to the Governor of Bengal informing him that this Council is of opinion that the Government should take immediate steps for the construction of a separate building suitable for the needs and dignity of the Bengal Legislative Council, and provide necessary funds for the purpose in the next year's budget.

Mr. LALIT CHANDRA DAS: On a point of order, Sir. So far as this House is concerned, it is the Bengal Legislative Council House which was constructed for the Bengal Legislative Council, and we can legitimately claim that this House is ours. So I submit that the question of constructing another Council House does not arise. Sir, is it or is it not our House? We claim, Sir, that when it was first constructed, it was meant for the Bengal Legislative Council—and quite a noble mansion to house the Elders of Bengal. So when we are in, we are not trespassers.

Mr. PRESIDENT: That is not a point of order. That is an argument which you may raise when the proper time comes.

Mr. LALIT CHANDRA DAS: This motion, if carried, will entail expenditure from public revenues of Bengal. I beg to ask whether this motion is not barred by any of the provisions of the Government of India Act, 1935?

Mr. PRESIDENT: Order, order; this motion is for declaring the opinion of the Council. It neither binds the Government nor anybody else. It is proposed to present an address to the Governor informing him that the Council is of opinion that Government should take some steps. So your point of order is not relevant.

Begum HAMIDA MOMIN: Sir, this is a resolution for eliciting the opinion of this House on a matter of the highest importance not only for this Council but for the proper working of the Legislatures of this Province. The necessity for separate accommodation for the Legislative Council is so obvious that it hardly requires any special pleading to obtain the approval of this House. So long the sittings of both the Houses have taken place in the same building, causing serious inconvenience to both. As the Assembly requires larger accommodation the existing building naturally should go to them. It will therefore be more economical to have the new building for the Legislative Council which requires to accommodate a much smaller number than the Legislative Assembly. Since the inauguration of this Council there being only one building for the use of both the Houses, it has been inconvenient and difficult to fix suitable time for the sittings of the two Houses each day. Meetings arranged for both the Houses in the same afternoons have been inconvenient to all. Moreover the duration of the meetings of both the Houses has been too short to transact an appreciable amount of business at such sittings. Before we settle down to work seriously the time is up and we have to vacate for the Assembly. Only yesterday, we were deprived of the privilege of having the questions and answers in the first part of the Council sitting in order, I believe, to give more time to the other business of

the House. This also occurred on another day during this session and we expect that the work of the Council will gradually increase and you, Sir, will be obliged to repeat this more frequently in future. It may be argued that the Council may sit in the morning and the Assembly in the afternoon or *vice versa*. But there is strong opposition from members of both the Houses to morning sittings.

Then again we have no separate Committee Room of our own, and very often we have had to move from room to room in search of a place where we could hold our party meetings or Select Committee meetings. A few days back we were asked to meet for the Privilege Committee meeting in the Committee Room. When some of us went up to the Committee Room, we found that it was simply packed with the members of the Assembly. Our Chairman said that we were to disperse that afternoon and meet some other time. This is very inconvenient and undesirable. Apart from this there is no room for the staff of the Legislative Council Department either.

Similarly, it is difficult for us to avail ourselves of the Council Library which cannot serve members of both the Houses at the same time. Very often statements laid on the Library table in response to questions asked in this House are removed immediately the Council is over, and papers required for the Assembly are placed. This gives us no time to consult these statements and avail ourselves of the information given therein.

In short, wherever a question of accommodation arises, numbers always tell and this House suffers.

The only thing that can be put forward against a separate building is the question of finance; but if we examine the thing closely it will be found that a separate building will be more economical in the future, in the long run. We may have spent a couple of lakhs of rupees or so as capital expenditure now, but there will be considerable saving in time and consequently in the allowances of members.

The sentimental aspect of the thing cannot be ignored. The House of Elders should be housed in a separate building of its own, suitable to its dignity and should not be left at the mercy of the Assembly. Assam, a province with a much smaller income, has already got a Council House of its own; likewise the United Provinces. Other provinces also where there is an Upper House are going to have their own separate Council Houses. In view of these important and urgent requirements, I earnestly commend my resolution to the House.

Mr. PRESIDENT: Motion moved that an address be presented through the President, Bengal Legislative Council, to the Governor of Bengal informing him that this Council is of opinion that the Government should take immediate steps for the construction of a separate building suitable for the needs and dignity of the Bengal

Legislative Council, and provide necessary funds for the purpose in the next year's budget.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move an amendment to the motion just moved by Begum Hamida Momin. I wish to add at the end of the motion the following:—

"with due regard to economy and complete the work within the next financial year."

In moving this amendment I need only remind the House that I do so because we were told in reply to some question that the House would cost eventually aboue Rs. 15 or 16 lakhs or probably more. So I think it will be a huge waste of public money to spend so much over a House like that only for the purpose of Council meetings. I should remind the House that the members of this House have always been pressing not only for economy but also for retrenchments and cuts and it will not be at all proper for us again to demand a palatial building suitable to the dignity of the House. It will be proper to show by example what we had been preaching all along. We shall be content if we are given only a meeting hall at a cost of about a lakh of rupees, somewhere on the western side of this building, probably between the two wings. Knowing as we do the economic condition of rural Bengal, which is the real Bengal, it will be not only improper but sinful if we spend a huge amount of money over this thing. A false idea of the dignity should not influence us at all. We should be content with our old ways of plain living and high thinking. I think most of the members of this House will agree with me that as much economy as possible should guide us in constructing a House for this Council. Of course if we can do without a House that will be the best but as we see that we are very much inconvenienced on account of the sittings of the Council and the Assembly being held in the same building, I think it would be economical in the long run to have a building at a cost of a lakh of rupees or so. That is why I move that my amendment be accepted.

Mr. PRESIDENT: Amendment moved that at the end of the motion the following be added, namely:—

"with due regard to economy and complete the work within the next financial year."

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I am rising at this very early stage to give some facts and figures to the members of this House to help them in coming to a proper decision of this question and

I think it is better that members should get this information beforehand, so that they can come to a proper decision. I hope it may be possible for me later on to speak again after the members have expressed their opinion. Government welcome this motion, because it gives them an opportunity to know exactly what the members of the Legislative Council really want. There have been expressions of opinion in this House in connection with various questions which went to show that the members were very anxious to have a separate building. At the same time there are persons who have given the Government to understand that the members of this House do not want a separate building. So this resolution will give to the Government a clear idea of what actually the members want the Government to do. Now it is very important that the members should realise what a separate building is going to cost them. I will read out a note which has been submitted by the Chief Engineer. It will give a fair idea of what this building cost and what will be the approximate cost of another building for the Legislative Council:—

"The total cost involved in constructing the present Legislative Building was Rs. 29,62,214, but this included the Architect's and the Consultant's fees, which amounted to Rs. 2,23,171. The net cost of the project was thus Rs. 27,39,000 approximately, and includes the piling of foundation Rs. 2,80,000, electric installations Rs. 1,23,800, sanitary works Rs. 96,000, cooling plant Rs. 1,59,245, furniture Rs. 91,000 and contingencies Rs. 59,849, Committee Rooms and screens Rs. 29,906, and lay-out of the grounds Rs. 2,74,300. Deducting the cost of the lay-out, the cost of the present Legislative Building amounts to Rs. 27,39,000 and minus the lay-out it comes to Rs. 24,64,700."

Then what follows is the most important point: "The total cubic contents of the present building is 26,000 c.ft. which gives a rate of approximately 15 annas per c.ft., exclusive of the cost of the lay-out. The Government Architect has made preliminary sketches to a scale of 32 ft. to 1 inch for the proposed Council Chamber building. These sketches have been prepared in accordance with the requirements of the Hon'ble President, and the cubic contents amounts to 2,231,000 c.ft. The cubic contents of the present building is 26,600 c.ft. and the cubic contents of the proposed Council Building as suggested is 2,231,000 c.ft. We have been in consultation with the Hon'ble President, and he has given us his views—and according to the preliminary plans, we have asked the Government Architect to get ready on the basis of the advice and suggestions given by the Hon'ble President and they were on the basis of 2,231,000 c.ft. It may be mentioned here that the Government Architect's sketches for the new building allowed for future extension of this structure, so as to provide space for additional assistants and records, if and when needed. The extra cubic space which could be provided at a future date in the new building, as

designed, is 196,000 c.ft. Taking the same rate c.ft. for the design of the proposed Council Building as for the present building, the cost of the proposed building at 15 annas per c.ft. works out as follows:—

Main building—at the rate of 15 annas per c.ft. = Rs. 20,97,140 for 2,231,000 c.ft. *Further extension*—196,000 c.ft. at 15 annas per c.ft. comes to Rs. 1,83,750.

Garages and servants' quarters—Rs. 2,28,000.

The idea is that there should be a terrace and under this terrace cars will be garaged. Then, add for lay-out half the actual cost of the lay-out of the present building compound, which comes to Rs. 1,37,150.

So that the total comes to Rs. 26,46,000, or, say, Rs. 26½ lakhs.

The rough estimated cost of the project according to the Government Architect's present design for building and lay-out is in the opinion of the Chief Engineer likely to cost no less than Rs. 30 lakhs to execute. That is to say, according to the Chief Engineer, Public Works Department, on the basis of the designs and the requirements given, the whole structure will cost something like Rs. 30 lakhs. The only way in which the amount can be reduced is—

(1) by reducing the amount of accommodation provided, and

(2) by reducing the standard of workmanship.

I will explain these two later on.

It may be mentioned in regard to (2)—this is important—that the existing building has been built to the highest specifications and it may not be desirable to construct a building for the new Legislative Council to lower specifications. If that view is adopted, the only method of reducing the estimated cost of the new building is by drastic reduction of the amount of accommodation allowed for in the main building, and garages and servants' quarters, and rejecting the lay-out as designed, and substituting a less ambitious scheme.

Now, Sir, I would just like to amplify the above with a few words, and it is this: this building has been built not only with the best of materials available, but to the highest specifications. Everything here is of the best, the design, the finish, the materials used, everything is absolutely of the best. Now, Sir, there are these two or three practical difficulties in building a House for the Second Chamber. Whatever building you put up, specially when you are going to put it up in this compound, it must, I think, be necessary that it should be in conformity with the existing building—in architectural conformity and symmetry. There must be symmetry with this building: you cannot put up something absolutely different to this building.

Mr. RANAJIT PAL CHOUDHURY: Specially with the High Court and the Government House next to us!

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, this is an important matter and I am sorry for this interruption. It is a serious matter and no member ought to take a very light view of this thing. The High Court and the Government House do not come into the question at all. Here is a legislative building for the Second Chamber of Bengal going to be constructed and of whatever type you build it, it would not ordinarily matter, but seeing that at the present moment you have got a building of a certain type of architectural design and built to a specification which is of the highest standard, you cannot put up another building near it which would be incongruous with the existing building.

Rai KESHAB CHANDRA BANERJEE Bahadur: What about the tin-sheds, to the north and south?

The Hon'ble Khwaja Sir NAZIMUDDIN: Well, those tin-sheds are temporary affairs. They cost Rs. 35,000 apiece, if I remember aright. They were designed for five years, seven years or ten years. And it is quite possible that they have been put up with the object of making them *pucca* in the future. But the position is this: you have got this building and another building has to be put up side by side with it, so I suggest that the new building should not be incongruous with the existing one. There is another thing on which the members of this House should express a definite opinion and that is this. What is going to be your requirements, and what is going to be the space in that building? The idea is that there should be accommodation for a hundred people. The gallery should be able to accommodate five hundred visitors more than what the gallery accommodation of the present building is.

Rai KESHAB CHANDRA BANERJEE Bahadur: What is the accommodation of the present building?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not know, but it is much less than what is proposed for the new building. Then, Sir, everything will depend on the accommodation which you want to provide in the building: there should be separate Committee Rooms, separate rooms for the Hon'ble Ministers, for the Hon'ble President, for the Leaders of the different groups, and so on and so on.

These are all the things that can be drastically reduced if this House wants it. But a mere drastic reduction of space is not enough. The other thing which is going to have a material effect on reducing the cost of the other building is the specification, and this is the most important point. Are the members of this House prepared to have a

Council building which is not going to be of the same material, the same standard of finish, to have the same furniture, where if you go in, you will find a marked difference between this building and that? You may have the same outside architectural design and still you may be in a position to reduce the cost, if members of this House are prepared to drastically reduce the specification. The floor and the wooden work are some of the items the cost of which may require reduction. The cooling system is another item, but there I consider it difficult to have a cooling system at a reduced cost. If you have a building, on the other hand, with fans going on, the acostics will be seriously affected. From the point of view of acostics therefore, you are bound to have a cooling system which is, of course, an expensive affair. These are the difficulties in the way of having a separate building for the Legislative Council. Government are placing all the facts before this House and it is now for the members of this House to say what they want, how much money they are prepared to spend on it, whether they do want a separate building at all, whether it is not possible to come and sit together at a joint committee of both the Houses and go into the whole question and see whether there can be some kind of arrangement arrived at by which the members of the Assembly and the Council will have equal rights to this building and will come to a very good working arrangement which will not in any way interfere with the working of the Assembly and the Council and will not also interfere in any way with the privileges of the members of this House and the Assembly; and even if there are some inconveniences, in view of the saving of public money they will be prepared to put up with those inconveniences and carry on work in the same building. These are questions which can only be settled by mutual good will and by a desire to come to accommodate one another. As far as I know, in the other place also there is a feeling that it is not advisable to spend such a large sum of money for another house of the Legislature. If that be so, members of the other House would be prepared to make sacrifices to accommodate the members of the Council and to give them facilities so that both the Houses can work together in harmony and without interfering with each other.

From the viewpoint of experts it is extremely difficult to have another building which will be in harmony with this one and at the same time be not expensive. It will be very difficult to reduce the expenditure even to the extent of Rs. 6 or 8 lakhs. I doubt if you can go to less than Rs. 6 lakhs, as I could ascertain from a discussion I had on this subject with the Chief Engineer in the presence of my colleague, the Hon'ble Maharaja Bahadur of Cossimbazar, and even then you will have to drastically reduce the specification, and you will find a marked difference between this House and the other one. The idea of having simply a chamber where you will have room to meet is not the only thing, but you must have also your offices and other accommodation—the Hon'ble President's room must be there, offices must be

there. Supposing that the two structures that have been put up are made permanent buildings for offices and you will only have a building for your own use, I doubt whether that will be of very great assistance. And it is a question of what it will cost. My suggestion therefore is that if it is possible for the two Houses to appoint two committees so that they can sit together and go into the whole question, it will be of very great help in coming to a proper decision. I think it is a question as to whether the two Houses should work together not in a spirit of antagonism and opposition but in a friendly and good spirit.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, at the outset, it must be said that as the question has come before the House, the House should give a decision of its own and express its own views. I suppose, Sir, there should not be, and there is not, any rivalry and antagonism so far as the question of accommodation of the two Houses is concerned. If the two Houses have to work as one legislature of the province and if they want to see that really good and substantial work is done for the province, they cannot afford to be rivals of each other; they cannot afford to entertain any feeling of disrespect to one another; on the other hand, they will have to come to a working arrangement for the purpose and they will have to respect the sentiments of each other. It is in that spirit that this motion, I hope, shall be considered by the members of the other House when they will have to come to a final decision on this question. The question has to be approached from the point of view of utility and services. I cannot swallow all that the Chief Engineer might have said to the Hon'ble Minister, namely, that it is impossible for him to draw out a scheme by which he can provide a house sufficient to meet all the necessities of this Council within the comparatively smaller figure of Rs. 5 or 6 lakhs. But so far as my own experience goes, I have seen at another place a house for an equal number of people, namely, sixty members in the United Provinces done at a cost of Rs. 5½ lakhs. It is a very decent building providing office accommodation, galleries for visitors, and accommodation for the members, committees, etc. Therefore, it is possible for an architect, if he is an architect of any value whatsoever, to prepare a scheme by which he can plan a structure fitting with this House and as an extension thereto. Let us now examine the present position. If it is necessary that we should meet simultaneously as we are now meeting, it is necessary for us, the members of the Legislature, to see what is the effect of this on the cost and on the ultimate production of work at the end of our sessions. I find we are sitting on an average for two hours a day and the Lower House sits for about two and a half hours instead of four hours which they could do at a stretch but for the meeting of the other chamber. The cost of

this House comes to Rs. 600 daily and so far as the other House is concerned, the cost comes to about Rs. 2,500 per day. If we, on account of the present working arrangement, sit on an average for thirty or forty days more than what we would otherwise have done, the total cost would come to about Rs. 20,000 per year. In the same way the working of the Lower House being larger in volume, they will be sitting on an average for forty to fifty days in a year more than they would have otherwise sat and the extra cost on that account would come to a lakh of rupees per year. The total cost would be about one lakh and a quarter a year, which, if capitalised, would come to 30 or 35 lakhs of rupees.

The purpose, Sir, for which we want a House is to economise the cost that the Government is from year to year going to incur on account of the extra sittings and also for the purpose of giving better facilities and creating better opportunities for the members of the two Houses to discharge the duties for which they have been elected. It is not enough so far as the present arrangements are concerned that we should carry through the present arrangement of Government business, namely, budgeting, criticising the budget and providing for the budget. Government have numerous other functions, and they should have in the fitness of things a large number of legislative programmes before them, and they are certainly going to bring those in future, and they by themselves will certainly take more than half the year of the Lower House and to that extent, at least one quarter of the year of this House. Therefore, Sir, the ultimate saving of the Government will be, if we can manage to build a house at a cost of five, or six, or seven lakhs, of an amount of 20 to 25 lakhs of rupees. That is a substantial gain so far as the Government is concerned, and the members of this House who decide this question should take notice of this.

Sir, as regards the requirements of this House, I say we can certainly reduce some of the cost that is foreshadowed by the Hon'ble Minister. We will have a House of sixty-five members,—that will be a sufficiently small House. Then as regards the workmanship, I think at a lower cost the workmanship will be better. The excessive cost of the Public Works Department is notorious. But in respect of this, once at least let them come out with an affectionate heart and see that they do a work for this House at a reasonable cost, and let that be for once only if not for ever. I say further that the question of getting symmetry is of no great importance, for two wings can be added to this House. In fact, this will be a complete House in itself and it will only be an extension of this House, and will appear like one structure. Therefore, if that is understood, it is not impossible for the department to conceive a plan and work it out in such a manner as will be in keeping with this House as well as will satisfy the full requirements of ours.

Now, Sir, as regards requirements, I submit this can be arranged by a better understanding of the requirements in consultation with the members as well as the President. In this connection, I may draw the attention of the Government to the monthly charges that they are paying in maintaining some of the offices in rented houses. So far as I could gather, the charges would not come to less than ten or eleven thousand rupees a month. So far as I understand, the Government are going to provide in the name of building accommodation for the Legislative Council, accommodation for some of their own offices for which they are not now finding accommodation. If that is going to be so, let the Government say so plainly and that instead of renting houses or building separate houses, if accommodation can be given in the building to be built for the Council, then that will be more convenient and appreciated by everyone.

Now, Sir, I have forgotten to mention another fact as regards economy. The Ministers are here from 1-30 to 7-30 or 8 o'clock. The Ministers are supposed to do some administrative work apart from doing legislative work on the floor of this House. If the two Houses can afford to sit simultaneously, as is happening in some of the other provinces, then the Ministers can come and go between the two Houses when occasion arises and can thus save each day two hours for devoting to their other office work. Same is the case with the permanent Secretaries. A large number of them have to be here from 2 o'clock to 7-30. They also can do some valuable office work during that time. That has also got a very substantial money value. Therefore, Sir, all these being considered, I submit that the necessity of a House is fully made out. This building cannot accommodate and satisfy all the requirements. The Library we have got is only an apology of a library. The room that is there is not sufficient for the purpose of a good lobby. We must have a better library if work has to be done. So far as the offices of the party leaders are concerned, they are not a luxury. They are necessary for the efficient discharge of the duties of the members of the parties of the Houses. If you provide better offices, members will be able to discharge their duties better, otherwise everyone will come here and discuss questions without having considered them in the Party meeting. Sir, these requirements are there, and the House is not enough for the purpose of satisfying these requirements. Therefore I submit that the Government should draw out a plan at a cost of not more than six to seven lakhs of rupees only for the purpose of the Legislative Council. If they want to provide accommodation for other offices of theirs, let them openly and clearly say so and add to this building the cost of it.

Maulana MUHAMMAD AKRAM KHAN: Don't get nervous, I won't protest. I only want to put a question.

Mr. HAMIDUL HUQ CHOWDHURY: Protest against whom, against yourself?

Maulana MUHAMMAD AKRAM KHAN addressed the House in Bengali. The following is the English translation of his speech:—

Against our selfishness. Sometimes we have to battle against ourselves when conflicts occur between our selfish ends on the one side and conscience and religion on the other. In that case we have to fight against ourselves. I want to put a question,—I want to say this in regard to the arguments that have been put forth about having a building of our own, if we begin our meetings at 7 a.m. or if that does not suit us all, if we begin at 11 a.m. continuing till 5 p.m. as the pleaders attend court (in mufassil they remain till 7 and no body feels any inconvenience thereof) or if our sittings continue till 3 p.m., then I think the objections regarding economies raised by my friend Mr. Hamidul Huq Chowdhury may be met satisfactorily. Besides that may save such a huge sum. My heart shivers to hear about 30 lakhs of rupees!

Mr. HUMAYUN KABIR: Mr. President, Sir, after the speech of Sir Nazimuddin, I do not think many remarks are necessary, because he presented the two sides of the question in the best possible manner. I would only offer for the consideration of the House one suggestion. Some of the arguments in favour of a separate building have been advanced by Mr. Hamidul Huq Chowdhury, and I do not want to add to them. I would only say that if the question is one of finance, we can certainly make provision for accommodating the Council without spending such high figures as have been suggested for building an entirely separate House, and I would offer this suggestion to the Government for its consideration. This House is at present built more or less in the shape of an H with two parallel wings jutting out of the central hall. If these two wings on both sides of the structure are joined together, we will have Legislative Chamber with two quadrangular courts, and the round domed hall in the centre. This would to a very large extent solve the question of accommodation, it would also add to the architectural beauty and dignity of the building as a whole. It would also result in a considerable reduction in the amount of expense which would be incurred in building an independent and separate structure for the Council. If we have two such extensions which will join the existing jutting wings, I think it will give sufficient accommodation for additional rooms for the members of the different parties who work within the Legislature. It might also to some extent help in solving the problem about the accommodation of certain offices to which reference was made by Mr. Hamidul Huq Chowdhury. I agree with him that if the Government want separate accommodation for their offices, they should be explicit on that point,

and the Council should not be burdened with all the odium that might come upon it on account of the cost which would be incurred in building a huge structure. So if that portion of the money is kept separate, we would know how much will be required for the needs of the Council itself. If Government accept the suggestion I have made, the Council could be accommodated by the two new wings when they are built.

One of my friends has suggested that we do not require a Chamber to accommodate more than sixty-five or seventy persons. I am sure that if we build a new wing connecting the existing ones, that will give us a hall which would accommodate not only sixty-five persons, but considerably more than that. We can easily provide accommodation for about sixty-five members and two hundred or three hundred visitors. It will also give us a more spacious library hall. The wing on the other side could house the Assembly offices and release rooms for the Council. We would thus have offices and the Party room which are required. If in this way we have two new connections built with open courts in between, we would get something in the nature of a quadrangular building that would add to the dignity and beauty of the structure. I would only plead that from the architectural point of view, from the æsthetic point of view, or from considerations of economy, such a proposal should not be rejected without proper discussion.

Then there is the question raised by my respected friend Maulana Muhammad Akram Khan. He proposes to have the sittings of this House during the whole of the day. There is one great difficulty about that and I am sure my hon'ble friend knows it himself. After all, many of the people who are in the Assembly and in the Council are compelled to do other kinds of work. We are not professional politicians of the type who would be able to devote the whole of the twenty-four hours to political work and political work alone. Many members have got other types of work. It may be desirable as suggested by Maulana Muhammad Akram Khan that there should be a class of persons whose only business in life will be to work on matters connected with the legislature. It may also be that such a class may grow in India in future and he is certainly within his right in expressing his opinion. But it would not be practical politics to expect that the sessions of the two chambers should go on during the whole of the day under existing conditions. We have to think of people who work in other spheres of life.

I would conclude by emphasising once again a point already mentioned. Under the present arrangement, though at first sight it seems that we are going to incur very large expenditure by building a new structure, yet in fact this will result in economy, because there will be economy in the work of the Legislature: the work will be done in a more concentrated time. There will be also saving of the time of

the Hon'ble Ministers themselves, and of the time of all the permanent Secretaries. So, from all these considerations and from the point of view of economy and from the necessity of independent accommodation for this House, I would commend to the consideration of Government the proposal which I have suggested.

Mr. RANAJIT PAL CHOUDHURY: Sir, in view of the Hon'ble Minister's statement that we should have a joint committee of both the Houses, I do not think we should waste very much time in going through further details, because we find that the Lower House does not seem to approve of all our actions. What I would propose, and I think the whole House is also of the same opinion, is that we should have separate accommodation for ourselves. My personal view is that we should have a decent building for the Upper Chamber here, but there is another question which should be considered at the same time. It is that whether after ten years we shall have an Upper Chamber at all or not. There may be only one Chamber in Bengal, then, in which case the expenditure of that whole wing will have gone for nothing. So taking all these points into consideration and also considering that we want another House, I think an estimate should be drawn up bearing this fact in mind, because in future if we do not require that House, or rather if the Upper House is abolished, the building can be utilised for other purposes.

Rai Sahib JATINDRA MOHAN SEN: Mr. President, Sir, after hearing the Hon'ble Home Minister and the Deputy President and Mr. Humayun Kabir, I should think that the suggestion of the Hon'ble Minister should be accepted for the present. Before coming to a conclusion, that is, before the House should give a definite opinion on the matter, I think a committee should be formed consisting of members of both the Houses (hear, hear) with a view to come to some sort of settlement and to see whether as a matter of fact it would be possible to accommodate both the Houses in a manner which would be conducive to the best interests of the Legislature. I should think that if a building is to be constructed, it is to be constructed in a manner which should befit the Upper Chamber of the Legislature. We should not feel a sense of inferiority when we would be sitting in a building which would be inferior to the one in which we are sitting at present. So if a new building is to be built, it must be one which should befit the members of this House and in this connection I should not think that you should mind the cost much. You should decide in the beginning, that if you go in for a new building, cost should not stand in the way, and, therefore, my suggestion to my friends here is to meet together and try to evolve a way so that both the Houses can work together in this Chamber accommodating each other as much as possible. My submission, therefore, to this House is that they should not come to a hasty decision in this matter (hear, hear).

Mr. LALIT CHANDRA DAS: Mr. President, Sir, at the very beginning I raise one question, and I raise the question on a point of order, whether as a matter of fact we are considered to be trespassers in this House or whether we have any legal right to it. I was under the impression that we are here legitimately and from the statements that have just now been made by the Hon'ble Home Minister it appears, Sir, we have a legitimate claim to this House (hear, hear) as much as the Assembly has, so that we cannot be regarded as trespassers. Now the point is whether we should have a separate house of our own. That is the point. Now the estimated cost has been read out to us by the Hon'ble Minister which is something staggering. Over 20 lakhs of rupees will be necessary to build up a building which should be in fitting contrast I should say with the present one. Even if the expense be reduced, it can be reduced to Rs. 6 lakhs or so, or thereabout under a reduced specification. Now should we or should we not go in for a house of 6 lakhs of rupees? Sir, the point arises whether there is any necessity for it. Views expressed here are different but a way has been suggested by the Hon'ble Home Minister and that way is a joint consultation of the members of both the Houses. Before we finally vote for a separate house, it is necessary for us to enquire by joint consultation whether as a matter of fact this building can accommodate both the members of the Assembly as well as the Council by division of timings in the matter of sittings. Now it has been stated by Maulana Muhammad Akram Khan that the time of sitting for the Council should be fixed from 12 noon to 3 p.m., and that that would give us a good long hours of work. So far as the Assembly members are concerned, they are usually working from 4-45 and as they begin to work at 4-45 they can work up to 8 or 9 p.m. or even the whole of the night if they so desire and if the work is so heavy, as to necessitate their presence in the House till late at night, i.e., in the Assembly Chamber so long, the whole point is whether a *via media* can be arrived at by joint consultation of both the Houses.

Suppose, Sir, that members of this House meet the members of the Assembly and they come to an arrangement as regards the hours of sitting, then it would appear that there was no necessity for a separate building for this Council. If an amicable arrangement could be arrived at between the members of both the Houses, then would it be wise to vote for the motion that is now before the House? As a matter of fact, I am supporting the proposal for a joint committee of both the Houses, as in that way alone members of the Assembly as well as of this Council will be able to consult one another and find out ways and means as to whether members of both Houses can be accommodated in this Chamber at different times and hours, and in that joint meeting the question of having separate hours for meetings of both Houses can be threshed out; and if no compromise is arrived at,

then we consider the proposal of having a separate building for this House, and also what its cost would be. Therefore, I submit that the motion before the House is premature, and we on this side of the House support the proposal for a joint consultation of both the Houses.

Rai KESHAB CHANDRA BANERJEE Bahadur: Mr. President, Sir, the question before the House is a very intriguing one, and in fact, I cannot make up my mind as to whether to support the motion or to oppose it. The point is whether we would be justified in spending Rs. 27 lakhs to construct a separate building on the lines of the Assembly building. The Hon'ble Home Minister has given us an idea of the cost that would have to be incurred in constructing a suitable building for the Upper House, and the cost is calculated to be something like 27 lakhs of rupees, if the building is to be in consonance with the dignity and needs of the existing one.

Sir, if we are to have a separate building of our own, the cost already incurred in constructing the two tin-sheds to accommodate the offices of the Legislative Assembly Department and the Legislative Council Department will go for nothing. I understand, Sir, that the cost of construction of the Assembly office is something like Rs. 38,000, and that of the Council office is about Rs. 36,000. So, these two tin-sheds will have to be demolished in order to make room for the new building.

The Hon'ble Home Minister has said that the experts estimate the new building to cost about Rs. 6 lakhs. Sir, I am not a building expert, but I have some idea of building construction and I think that the expenses will go up to 10 lakhs of rupees, if the building is to be in keeping with the dignity of this House.

Then, Sir, there is another difficulty which has not been pointed out by any of the speakers. Various suggestions have been made, and Maulana Muhammad Akram Khan has said that it may be so arranged that the Upper House will meet in the morning, and the Lower House in the afternoon. I am afraid, this is not a practical proposition as in that case the Hon'ble Ministers will have to attend the meetings of the Council and the Assembly once in the morning and again in the afternoon, and no time will be left for them to do office work. That is a great handicap. Then there are other difficulties also. If the meetings of the two Houses are held simultaneously in the two separate buildings, it will be impossible for the Ministers to be present in both the Chambers at the same time, particularly if the same subject relating to the department of an Hon'ble Minister comes up for discussion simultaneously in both the Houses. The impracticability of the suggestion to have morning and afternoon sittings is, therefore, obvious. It may be said that some Ministers may remain present in one Chamber and some in the other. Even then the problem remains as unsolved as ever, for the subjects relating to a particular Minister's

department may have to be dealt with by another Minister who knows very little of that department. This will result in confusion. The difficulties can be obviated if Parliamentary Secretaries are appointed but the present Ministry seems to be able to carry on without them.

Another point to which the Hon'ble Home Minister has referred is the necessity to provide accommodation for five hundred visitors in the Upper Chamber.

(At this stage Mr. President vacated the Chair which was taken by Khan Bahadur M. Abdul Karim amidst applause.)

Sir, the Hon'ble Home Minister deserves our thanks for the compliment he has indirectly paid to the members of this House. He had evidently at the back of his mind the idea that the level of debate in this House being much higher than that in the Lower House, our meetings were calculated to attract a larger number of visitors.

Sir, Mr. Ranajit Pal Choudhury has alluded to a point of considerable importance. In opposing the motion he has said that it is not known whether the Bengal Legislative Council will exist after ten years; but I may remind him that if we look into the constitutional history of the countries all over the world, we find that the Upper Chamber, wherever it exists, is more or less a permanent body; one-third of its members retire at the end of a certain number of years and new members are elected in their places. So, I do not think that there need be any apprehension on that score. As the Upper Chamber is a permanent body, we may have a separate building but at a much less cost than that foreshadowed by some of the speakers in the course of the debate this afternoon.

Mrs. K. D'ROZARIO: Sir, I feel proud to support with all the emphasis I can command this very urgent and, may I say, belated motion of my hon'ble friend Begum Hamida Momin for the immediate consideration of early sanction to the erection of a suitable structure worthy of the dignity and status of this hon'ble House and the important and populous province which it represents. We have, I understand, been utilising this Chamber and its lobbies since July, 1937, by the courtesy of the members of another House, whose urgent needs of the use of this building, library, and restaurant clash frequently with ours and force this House to cut short the duration of its sittings and important discussions.

Sir, as a daughter of Bengal and as a resident of Calcutta, I am a lover of this City. I have, during my travels in India, Burma, and other countries abounding in hills, dales and other features of natural beauty, been thinking of the unvarying and uninteresting appearance of our flat alluvial soil, fertile to a phenomenal degree it is true, but devoid of the invigorating and health-giving climate of the plateau, situated less than 300 miles to the north-west of us. What is there

to attract either the wealthy visitor of other provinces in India or the tourist from foreign lands to this Ditcher's city of clay, fog, smoke, beggars, and pavement obstructors, and induce them to spend a holiday here and so enrich our city? Nothing that I know of beyond the accident that our city of jute, coal, and tea magnates is on the route to Darjeeling and its view-points of Everest and Kanchanjungha. Our hotel accommodation is limited and expensive, and our public buildings do not compare too favourably with those of Bombay, Colombo, and other places outside India.

Sir, the erection of public buildings of architectural and artistic beauty in Calcutta with internal decorations in keeping with such buildings is a public duty, because public buildings and conveniences are among the chief sources of attraction to provincial visitors and foreign tourists.

The revenues of a city and the carrying companies connected therewith are largely increased by the number of visitors who are attracted to it by its beauty and sanitation and the facilities it affords for business, trade and health. We have not yet developed a tourist sense such as obtains abroad and in particular in France where the revenues from tourists aggregate to 70 million pounds per annum and where Government is very much alive to the comforts and convenience of visitors. Sir, Calcutta boasts of no great temples like those at Rameswaram with its wonderful carved frescoes of immense dimensions and striking beauty and its shrines to Sri Ram and Hanuman or mosques like the Jumma Masjid at Delhi in spite of its huge Muslim population.

Originating on the previously unbuilt site of Sutanati from where the early English traders purchased their cotton thread less than two hundred years ago, it is far too young to boast of famous ruins like those at Sarnath, Taxilla and Pompeii which fire the imagination of people and induce them to travel. It has not even less ancient buildings—baring the Victoria Memorial—like the incomparable Church of St. Peter in Rome with its dome and lantern standing more than three quarters of a furlong above Rome; the indescribable Gothic cathedral at Milan with its exquisite statues and its dreams in bronze gates and tapestry hangings; the beautiful Byzantine and mosaiced church of St. Mark and its busy square at Venice or the great and beautiful cathedral of St. Paul, the Houses of Parliament and other great buildings in London which are all sources of attraction and inspiration and excite wonder and admiration in travellers from all parts of the world who spend their savings during their stay at such places and enrich them.

Sir, for the reasons assigned and for the dignity and glory of the Princes and people of this great country as also of this hon'ble House, let us begin to take steps early to improve and beautify this

great city of ours by building just one great chamber as Akbar, Shah Jehan and the great Viceroy Lord Curzon had done by designing their palaces, mosques, mausoleums and memorials like Titans and finishing them like jewellers. Let such a chamber have attached to it apartments worthy of its President and members. Let us build with ribs of steel, sinews of cement and outer coverings of snow concrete; so that the structure may last a thousand years and more. Let us supplement the external architectural design and beauty, with internal decorative art affected by the best artists of Bengal. Let the quality of the furniture and fittings and the lighting be in keeping with the dignity of the President and members of this House. Sir, believing as I do that any scheme which brings visitors, tourists and traders from other places to Bengal will necessarily benefit all businesses and professions in this province, I support this motion of the hon'ble member Begum Hamida Momin and I hope that it will also receive the support of the members of the various groups of this House.

Mr. KADER BAKSH: Sir, several arguments have been advanced in favour of a separate chamber for the Upper House, but I have not been able to find out one thing. Everybody feels that there is a necessity for a separate chamber and the Hon'ble Home Minister has said that this House has been made over to the Assembly, and we the members of the Upper House, have been here on sufferance, just as charity boys, as licensees, and we have no right to come to this building and hold our meetings.

Now, my friend Mr. Das has said that by virtue of our right we are entitled to come to this House. But, Sir, if we insist on our right, we shall perhaps have to institute a partition suit in a court of law. Members of this House many a time have felt very small when they had to run from room to room in order to hold meetings of the Select Committee. Only the other day, Sir Bijoy took us from one room to another for the purpose of holding a Select Committee meeting. We have certainly got our self-respect and this House has got some dignity. It must have a house of its own consistent with the dignity of its members.

One thing, I do support the suggestion of my friend Khan Bahadur Saiyed Muazzamuddin Hosain that economy should be observed in constructing a house for the members of the Upper Chamber. This is a matter which has to be looked into.

Another suggestion made by Mr. Hamidul Huq Chowdhury is that several rooms are required for different officers of the Council. This is also necessary and should be looked into. So I do wholeheartedly support the motion of Begum Hamida Momin and also suggest in this connection that strict economy should be observed in constructing the house.

Mr. NAZIRUDDIN AHMAD: Mr. President, Sir, I would be extremely short. I submit that it has already been made clear that the construction of a second house will mean real economy in the long run. It has been shown that a sum of Rs. 1 lakh per annum could be saved if a separate house were constructed; so, by capitalising this sum at twenty years' purchase we can have a complete and a magnificient building from the savings alone and at the end of twenty years save a large amount of recurring expenditure annually. With regard to the cost of building a house there is room for economy. Costs of building offices and outhouses must be left out altogether since they must be built in any case. No doubt a house for the Council ought to be consistent with its dignity, but the dignity of a house does not necessarily consist in bricks, stones and marble which are used in its constructions. It has much to do with the quality of its debates and the sobriety and wisdom that should prevail in the discussions of the House. There is Mr. Gandhi and if we follow his method we can have dignity and economy at the same time. What we are concerned with at the present moment is to impress on the Government the need of a separate house. If you cannot give us a costly house, give us a cheaper one. We will create our standard and maintain our own dignity.

With regard to the installation of a cooling plant, no doubt it is acceptable. But I think it is more needed in the atmosphere of the other House where debates are conducted with a greater amount of heat and passion and the installation of a cooling plant there would be more appreciated. But I submit in the serene atmosphere of this House there is less need for a cooling plant.

With regard to the suggestion made by the Hon'ble Home Minister, I think there is nothing inconsistent between that suggestion and the passing of this resolution. If we agree that we want a separate house, then it would be necessary for us to consider the suggestion of the Hon'ble Home Minister. If we pass the resolution, we may then agree to a Joint Committee of both Houses and go into the ways and means.

With these few words, I beg to support the motion of Begum Hamida Momin.

Khan Bahadur ATAUR RAHMAN: The question be now put.

The CHAIRMAN (Khan Bahadur M. Abdul Karim): The question before the House is that the question be now put.

The motion was agreed to.

Begum HAMIDA MOMIN: Sir, I am not going into details of the cost as given by the Hon'ble Minister Sir Nazimuddin, but the sum

total of it is that the Council House if built to accommodate one hundred members and be of a lesser area will cost Rs. 30 lakhs, whereas this House with everything that may be called best and of greater area will cost only Rs. 29 lakhs and odd. I cannot really understand this. Then as regards the reduction of accommodation, we will not require to provide for as many Ministers there as in the Assembly. And several offices similarly can be cut down and reduced.

The most important point is that we generally get two hours for our sittings and have therefore to hurry through our business. Very often the object of a discussion on a certain point is lost, because a discussion, if carried on, is expected to influence the opinion of the members and to help them to come to a decision to a certain extent, if the deliberations are reasonable. The House can look into the matter in the light of the remarks made in the course of a discussion. But this advantage is lost, because we have to vacate the Chamber in the midst of discussion as we have to do to-day.

The buildings and structures all over the world as in the ages past, leave a mark behind and go to show the height of civilisation to which a nation had risen. The buildings of the Moghul period, and the buildings in Southern India and other places go to show what India had before and a building for a Council House in Bengal will not make Bengal the poorer.

Then again a suggestion has been made by the Maulana Akram Khan that both the Houses may sit on the same day, one in the morning and the other in the afternoon, but I think the arguments adduced by Mr. Humayun Kabir have amply explained the difficulties of accommodation as well as of economy.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I just want to say one or two words. To begin with, I want to remove one misunderstanding which may have cropped up in the minds of the members of this House on account of the speech of the hon'ble the Deputy President. I have very grave doubts whether it is possible to make any savings whatsoever by having separate buildings, one for the Legislative Council and the other for the Legislative Assembly, because I am definitely of opinion that the number of days on which the Council will sit and the number of days on which the Assembly will sit will not be reduced by having two separate buildings. Once the facilities are there, the demand for sittings will grow more and more and there cannot be any reduction of the expenditure. I quite agree that if what Mr. Hamidul Huq Chowdhury said were correct, there would be a cast-iron argument for having a separate building at a cost of Rs. 20 or 25 lakhs with recurring expenditure, but I do not think you will be able to effect any saving by curtailing the number of days on which the Council and Assembly will sit. You cannot go very far beyond April

and you cannot go very far beyond August and September in the monsoon; you may also have a November sitting or you may begin from January. So I doubt very much whether it will be possible to effect great savings by having two Houses.

A simultaneous sitting is also extremely difficult. My friend Rai Keshab Chandra Banerjee Bahadur has given some practical expression of opinion on the difficulty of having two Houses together with the same Ministers to answer in both the Houses at the same time. Just imagine the adjournment motion on the death of Harendra Munshi being moved in the Council and in the Assembly on the same day and practically at the same time. The discussion will continue for two hours and it is not possible for a Minister to be present at both the Houses at the same time. In the House of Commons there is a different set of Ministers or Under-Secretaries entirely responsible which again means an addition to the cost.

Khan Bahadur ATAUR RAHAMAN: The addition of Parliamentary Secretaries will solve the difficulty.

The Hon'ble Khwaja Sir NAZIMUDDIN: I doubt if the mere addition of Parliamentary Secretaries will be enough. There again the question of expenses will come in.

Besides this, I am extremely doubtful if it is possible to complete the building in one year. I think it is absolutely out of the question.

It is really not clear even after all the speeches we have heard, to what extent the members are prepared to go for the privilege of having a Legislative Council building. Khan Bahadur Muazzamuddin Hosain's amendment is so beautifully weighed "with due regard to economy" that it is very difficult to get any idea. I still suggest that after this resolution has been debated and passed here, an early opportunity should be taken by this House to appoint a committee of this House and Government would try to get another committee appointed by the Legislative Assembly with a view to these two committees sitting together and making some definite recommendation to Government as to what they should do in this matter. This is my suggestion. If the House approve of it, it will simplify matters. Up till now we have not drafted a procedure for a Joint Committee of the Assembly and the Council. Until we have drafted that procedure, it is not possible to have a Joint Committee, but what we can do is that this House can appoint a committee of its own and direct that committee to sit with another committee that will be appointed by the Assembly and the two will sit together or meet together.

Rai KESHAB CHANDRA BANERJEE Bahadur: Who will convene them?

The Hon'ble Khwaja Sir NAZIMUDDIN: Government will convene them. Supposing you have a representative committee of this House to go into the question of a building for the Legislative Council and the Assembly appoints another committee of its own, Government will then ask these two committees to sit together to consider this question.

(At this stage the Hon'ble the President took the Chair.)

Mr. SHRISH CHANDRA CHAKRAVERTI: What about this motion?

The Hon'ble Khwaja Sir NAZIMUDDIN: If it is passed, it will be a question of opinion——

Mr. LALIT CHANDRA DAS: If it is passed what is the necessity of a committee?

The Hon'ble Khwaja Sir NAZIMUDDIN: I will just explain. This is an expression of opinion of this House that they would prefer to have a separate building. As to what that building should cost, what accommodation it should have and other details——

Mr. LALIT CHANDRA DAS: Suppose the two committees sitting together decide that we should not have a separate building, what will happen if this motion is passed?

The Hon'ble Khwaja Sir NAZIMUDDIN: If they decide that then the committee will report to this House that they have considered the question and are of opinion that we should not have a separate building for the Council, and this House will then consider that recommendation and revise its opinion in the light of the report of the committee.

Mr. LALIT CHANDRA DAS: How can a committee of this House decide that after passing this motion?

The Hon'ble Khwaja Sir NAZIMUDDIN: The committee will report to this House and this House can revise its opinion in the light of the report made by the committee. The committee will report to this House whether a separate building will be necessary.

Mr. LALIT CHANDRA DAS: After committing ourselves now to a separate building!

The Hon'ble Khwaja Sir NAZIMUDDIN: You are only committing yourselves to an expression of opinion that you prefer to have a separate building, but if the committee of both Houses that may be appointed, point out practical difficulties in the way and suggest something which is better, well, this House is quite competent always to revise its opinion, in view of the opinion of the committee. Here you have not considered details. What you are doing now is only expressing a general principle that this House should have a separate building. I think the resolution of the Begum Sahiba is no more than this, that on principle this House should have a separate building——

Mr. LALIT CHANDRA DAS: Yes, a building worthy of our dignity as well as our needs.

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, certainly, a building worthy of your dignity and needs. It is with this object that you are going to appoint a committee to go into the question as to what kind of building will best serve that purpose and how far that will be worthy of your dignity, what it will cost and all these details for the committee to advise you on, and you can sit together in the committee together with another committee that may be appointed by another House, and there the whole question may be threshed out with all its details and the committee will then submit their report to this House. It will then be quite open to this House to change its views in the light of the opinion of the committee. Therefore I do not see any practical difficulty about this.

Mr. HUMAYUN KABIR: Then you want that the resolution should be withdrawn!

The Hon'ble Khwaja Sir NAZIMUDDIN: Well, we have no objection, if the member wants to withdraw it; Government will not stand in the way.

Mr. PRESIDENT: Order, order. The original motion was that an address be presented through the President, Bengal Legislative Council, to the Governor of Bengal informing him that this Council is of opinion that the Government should take immediate steps for the construction of a separate building suitable for the needs and the dignity of the Bengal Legislative Council, and provide necessary funds for the purpose in the next year's budget.

Since which an amendment has been moved by Khan Bahadur Saiyed Muazzamuddin Hosain that at the end of the motion the following be added:—

> "with due regard to economy, and complete the work within the next financial year."

Now the question before the House is that the amendment be made.

The amendment was lost.

The original motion was then put and agreed to.

Mr. PRESIDENT: I find that the Hon'ble Mr. Nalini Ranjan Sarker is now present in the House. If he has to make any statement he can do so now.

The Hon'ble Mr. NALINI RANJAN SARKER: I am sorry, Sir, I could not be present at Question time, I find that there were two questions standing in my name, but I got information about those question only at 2-45 p.m.; so I could not come in proper time, as I was engaged in some other work.

As regards the enquiry made by Mr. Narendra Chandra Datta, I enquired of my department as well as of the Revenue Department and came to know that no questions are in default. I have not been able to enquire of any other departments, nor do I know to which department Mr. Datta's question refers.

Mr. NARENDRA CHANDRA DATTA: My question refers to the department of the Home Minister.

The Hon'ble Mr. NALINI RANJAN SARKER: I could not make any enquiry, Sir, into this matter this morning.

Mr. PRESIDENT: Order, order. The Hon'ble Mr. Nalini Ranjan Sarker promised that he would make an enquiry and reply to-day, and that is why I desired his presence in this House to-day—not for answering questions, that could have been answered by any other Hon'ble Minister, but because I expected him to be here in time to reply in accordance with the promise which he had made himself about the general state of affairs, and not about any particular question. He promised to speak on behalf of the Ministry as to why certain questions were not answered in due time though notices of those questions were given more than a month ago. That was the particular matter for which I desired the presence of the Finance Minister here to-day.

The Hon'ble Mr. NALINI RANJAN SARKER: I am very sorry, I was detained in some other work. So far as my enquiry is concerned, therefore, I could not complete it.

Mr. PRESIDENT: The Chair expects that in future if an Hon'ble Minister is not able to be present he will at least inform the President through some of his colleagues.

The Council now stands adjourned till 2-15 p.m. on Friday, the 4th March 1938.

Adjournment.

The Council then adjourned till 2-15 p.m. on Friday, the 4th March, 1938.

Members absent:

The following members were absent from the meeting held on the 2nd March, 1938:—

(1) Ahamed, Mr. Nur.
(2) Chowdhury, Mr. Humayun Reza.
(3) Datta, Mr. Bankim Chandra.
(4) Dutta, Mr. Kamini Kumar.
(5) Ellahi, Khan Bahadur S. Fazal.
(6) Esmail, Khwaja Muhammad.
(7) Hossain, Mr. Mohamed.
(8) Jan, Khan Bahadur Shaikh Muhammad.
(9) Lamb, Mr. T.
(10) Mookerjee, Mr. Naresh Nath.
(11) Mookerji, Dr. Radha Kumud.
(12) Ormond, Mr. E. C.
(13) Ray Chowdhury, Maharaja Sir Manmatha Nath, of Santosh.
(14) Sinha, Rai Bahadur Surendra Narayan.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 4th March, 1938, at 2-30 p.m., being the nineteenth day of the First Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Hunger-strike in the Alipore Central Jail.

204. Mr. NARENDRA CHANDRA DATTA (on behalf of Mr. Kamini Kumar Dutta): (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if it is a fact that a considerable number of prisoners in the Alipore Central Jail have gone on hunger-strike?

(*b*) If so, will the Hon'ble Minister be pleased to state—

(*i*) their number;

(*ii*) the date from which they are on hunger-strike;

(*iii*) their names;

(*iv*) causes, if any, stated by them which have led them to this step; and

(*v*) steps, if any, taken or intended to be taken by Government to alleviate the situation?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) Sixty-seven did so, but have since abandoned their attitude.

(*b*) (*i*) to (*iii*) It is not in the public interest to publish their names. They comprised of persons convicted of the following classes of crime:—

Murder	...	21
Rape, abduction and kidnapping	...	6
Dacoity	...	15
Robbery	...	2
Culpable homicide	...	6
Grievous hurt	...	5
Offences relating to arms	...	8

Counterfeiting	...	2
Criminal breach of trust	...	1
Rioting and causing death	...	1

They have gone on hunger-strike in batches in succession between the 7th and 18th of February.

(*iv*) They demanded the approximation of their diet, clothing and privileges to the scale accorded to division II prisoners.

(*v*) Does not arise.

Detenu Babu Nagendrasekhar Chakraverty.

205. Rai BROJENDRA MOHAN MAITRA Bahadur: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether it is a fact that the Government have not allowed the brother of Babu Nagendrasekhar Chakraverty, a detenu since 1930, to see him?

(*b*) How many times Babu Nagendrasekhar Chakraverty was brought down to the Calcutta Medical College for treatment and for how long was he detained in each case?

(*c*) Does the Hon'ble Minister propose to release him in view of his continuous ill health?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) No.

(*b*) Five times—

(1) Ninety-one days.

(2) Two days.

(3) One day.

(4) Fourteen days.

(5) Since December 20th.

(*c*) His case is now under consideration.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether the said Babu Nagendrasekhar Chakraverty is still in the Calcutta Medical College?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state the disease he is suffering from?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice.

Monthly Allowance to Released Detenus.

206. Khan Bahadur ATAUR RAHMAN (on behalf of Mr. Nur Ahamed): (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if the monthly allowance of Rs. 15 is being paid to all released detenus? If not, why not?

(*b*) What is the exact number of detenus who have not been already released, of them how many are from the Chittagong district?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) No. With the exception of the 1,106 detenus released in accordance with the announcement of November last the merits of each individual case were examined and allowances were granted of varying amounts as necessary. In the cases of the 1,106 detenus released within a very short period of time, it was impossible to conduct such enquiries and allowances were granted at a flat rate without further examination. Those released from home domiciles were allowed to continue to draw the allowances sanctioned for them in such domiciles.

(*b*) The hon'ble member is referred to the answers already given to questions Nos. 68, 92 and 138 by Mr. Moazzemali Chaudhury. The statistics for Chittagong are not readily available.

Detenus under Home Internment.

207. Mr. SHRISH CHANDRA CHAKRAVERTI (on behalf of Mr. Naresh Nath Mookerjee): (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether in pursuance of his declaration in this House on the 16th August, 1937, all detenus in home domicile for three to six months have been released?

(*b*) If not, will the Hon'ble Minister be pleased to state whether such detenus were not released because of their conduct proving unsatisfactory to the Police?

(*c*) If so, were the detenus in question informed of the nature of their fault and given an opportunity to explain their position? If not, why?

(*d*) What is the number of such detenus who were released in pursuance of the above declaration of the Hon'ble Minister?

(*e*) What is the number of the detenus who are not released in spite of their being in home domicile for three to six months?

(*f*) What is the number of detenus who were released up till the 31st December, 1937, in pursuance of the said declaration of the Hon'ble the Home Minister?

The Hon'ble Khwaja Sir NAZIMUDDIN: The hon'ble member is invited to refer to the answer given to question No. 138 asked by Mr. Moazzemali Chaudhury in this House on the 9th February, 1938.

Treatment meted out to the Repatriated Prisoners.

208. Mr. NARENDRA CHANDRA DATTA (on behalf of Mr. Kamini Kumar Dutta): Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether the attention of the Hon'ble Minister has been drawn to the public complaint made about the treatment meted out to the prisoners repatriated from the Andamans Cellular Jail to Bengal Jails;

(*b*) whether it is a fact that in the cold of winter the said prisoners have no proper clothing;

(*c*) whether it is a fact that they have been supplied only with four coarse blankets which constitute their pillow, bedding and wrapper and with a blanket *kurta* without any lining;

(*d*) whether it is a fact that they get no footwear, no pillow, no shirt;

(*e*) whether it is a fact that no milk or *ghee* is supplied to them nor fish nor meat;

(*f*) whether it is a fact that they are kept in cells and cubicles which are only 5 × 5 square feet in size;

(*g*) whether it is a fact that the nocturnal latrine and urinal arrangements are within these cells and cubicles;

(*h*) whether it is a fact that in such cells and cubicles the prisoners have to remain from 5-30 p.m. to 6-30 a.m.;

(*i*) whether such treatment has undermined the health of the prisoners; and

(*j*) whether the Hon'ble Minister intends to take any steps to alter this mode of treatment and remove the causes of grievance?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) I am aware that dissatisfaction has been expressed.

(*b*), (*f*) and (*i*) No.

(*c*) When some of them were in division III they were equipped according to the rules for that division. All these prisoners are now in division II and are equipped in accordance with Jail Code Rule 1165, a relevant extract from which is laid on the table.

(*d*) *Vide* the answer to (*c*) above and Jail Code Rule 1061, a copy of which is laid on the table.

(*e*) It is not a fact that no fish or meat was allowed. Milk was supplied on medical grounds.

The diet scales prescribed for division II prisoners will be found in Jail Code Rule 1100, a copy of which is laid on the table.

(*g*) Yes.

(*h*) The present hours are sunset to 6 a.m. The terms vary according to the seasons.

(*j*) The hon'ble member is invited to study the rules for the treatment of prisoners in division II which will be found in Chapter XXXV of the Jail Code, a copy of which is in the Library. In my view the scale of treatment provided there is suitable and adequate.

Statements referred to in the answer to question No. 208.

EXTRACT FROM THE BENGAL JAIL CODE RULES FOR THE SUPERINTENDENCE AND MANAGEMENT OF JAILS AND SUBSIDIARY JAILS IN BENGAL.

* * * * * *

1165. Convicted prisoners in division II sentenced to rigorous imprisonment shall be furnished with the following Jail equipment:—

(a) For the hot weather.

Males.

Accustomed to European mode of living—		Accustomed to Indian mode of living—	
Working suit	1	*Dhotis* 2 or *paijamas* (pairs)	2
Ordinary suit	1	Trousers (pair)	1
Cotton shirts	2	*Kurtas* or half-shirts	2
Cotton socks (pairs)	2	Cotton shirts	2
Cap	1	Cotton socks (pairs)	2
Helmet	1	Cap or *pagri*	1

Females.

Accustomed to European mode of living—		Accustomed to Indian mode of living—	
Cotton skirts	2	*Saris* (pairs)	3
Cotton blouses	2	Cotton blouses	2
Cotton shirts	2	Chemise or shirts	2
Cotton drawers (pairs)	2	Drawers (pairs)	2
Cotton stockings (pairs)	2	Stockings (pairs)	2
Garters (pair)	1	Garters (pair)	1
Leather belt	1		
Cap	1		
Sola hat	1		

(b) For the cold weather and rains.

Males.

Accustomed to European mode of living—			Accustomed to Indian mode of living—
Working suit	..	1	In addition to the scale for hot weather one woollen coat and two flannel shirts will be allowed.
Woollen suit	..	1	
Flannel shirts	..	2	
Cotton socks (pairs)	..	2	
Cap	..	1	
Helmet	..	1	

Females.

Accustomed to European mode of living—			Accustomed to Indian mode of living—		
Cotton skirt	..	1	*Saris* (pairs)	..	3
Cotton blouse	..	1	Cotton blouse	..	1
Woollen shirt	..	1	Woollen blouse	..	1
Woollen blouse	..	1	Flannel shirts or chemise		2
Flannel shirts	..	2	Cotton drawers (pairs)	..	2
Cotton drawers (pairs)	..	2	Stockings (pairs)	..	2
Cotton stockings (pairs)	..	2	Garters (pair)	..	1
Leather belt	..	1			
Garters (pair)	..	1			
Cap	..	1			
Sola *topi*	..	1			

(c) For both sexes at all seasons.

Towels	..	2	Spoon	..	1
Boots or shoes (pair)	..	1	Aluminium plate	..	1
Comb	..	1	Aluminium cups	..	2
Blankets	..	2	Small hand mirror	..	1
Bedstead	..	1	Tooth brush	..	1
Aluminium mug	..	1			

Plain *dosuti* cloth without blue stripes shall be used for making suits.

Note 1.—Articles of clothing solely for the use of female convicts need not be kept in stock, but may be ordered as necessity arises. Pending issues females shall retain their private clothing.

Note 2.—Married and unmarried female prisoners accustomed to Indian mode of living shall be provided with plain white *saris* with coloured borders. Widow prisoners shall be provided with plain white *saris* without coloured borders.

All clothing shall as far as possible be manufactured in the jail and a standard shall be selected for all Jails.

1061. *Furniture.*—Prisoners in division II shall be provided with a thin mattress, one pillow, two bedsheets, two pillow cases, and a mosquito-net in addition to ordinary jail bedding. They shall be given a stool or chair, a small table or shelf and a light in their cells or wards until 10 p.m.

* * * * * *

1100. The following is the scale of diet sanctioned for divisions I and II convicts :—

Diet scales.

A diet.		B diet.	
Items of diet.	Quantity.	Items of diet.	Quantity.
For early morning meal.		*For early morning meal.*	
Bread or *atta* or rice or *suji*	2 ch.	Bread ..	2 ch.
Tea or cocoa or coffee ..	¼ ch.	Tea or cocoa or coffee ..	¼ ch.
Sugar ..	1 ch.	Sugar ..	1 ch.
Butter or *ghee* ..	⅜ or ¼ ch.	Butter ..	⅜ ch.
Milk ..	1 ch.	Milk ..	1 ch.
For other meals.		*For other meals.*	
Fine rice ..	8 ch.	Bread ..	6 ch.
or		or	
Atta ..	10 ch.	*Atta* ..	1 ch.
Dal ..	2 ch.	Fine rice ..	3 ch.
Vegetables ..	4 ch.	*Dal* ..	1½ ch.
Potatoes ..	2 ch.	Vegetables ..	2½ ch.
Meat or fish ..	2 ch.	Potatoes ..	2 ch.
(or milk 6 ch. or vegetables 8 ch. or eggs 2, in lieu of meat or fish).		Meat or fish or eggs 2, in lieu of 2 ch. of meat.	5 ch.
Condiments ..	3/16 ch.	Condiments ..	⅛ ch.
Tamarind or lime ..	1/16 ch.	Tamarind or lime ..	1/16 ch.
Salt ..	½ ch.	Salt ..	½ ch.
Gur ..	¼ ch.	Jam or jelly, or fruit at equivalent value of jam or jelly.	¼ ch.
Mustard oil ..	⅛ ch.		
Ghee ¼ ch. or mustard oil ..	¾ ch.		
Dahi 2 ch. or fruits ..	..	Mustard oil ..	¼ ch.
(or jam and jelly to the equivalent value of 2 ch. *dahi*).		Suet ..	½ ch.
		Onion ..	¾ ch.
		Coal ..	1 sr.
Coal ..	1 sr.		

The same scale of diet is sanctioned for non-labouring prisoners in division I and II, and for division I undertrials, subject to the following modifications :—

A diet.		B diet.	
Items of diet.	Quantity.	Items of diet.	Quantity.
For early morning meal.			
Bread or *atta* or rice or *suji*	1½ ch.	Bread ..	1½ ch.
For other meals.			
Fine rice ..	7 ch.	Bread ..	5 ch.
or			
Atta ..	8 ch.	Fine rice ..	2½ ch.
Meat or fish ..	1 ch.	Meat or fish ..	3 ch.
(or milk 4 ch. or egg 1 or vegetables 6 ch. in lieu of meat or fish.)		(or eggs 2 in lieu of 2 ch. of meat.)	

N.B.—The total cost of A or B diet should not exceed 9 annas and 6 pies per head per diem.

Prisoners on first admission will be allowed to take either A or B diet and no subsequent change will be allowed. The Superintendent shall issue a menu in accordance with the quantities authorised and shall use his discretion in allowing substitutes, but the cost of the diet shall not exceed 9 annas 6 pies. The issue of *atta* or rice can be made in any proportion required, any alteration of diet considered necessary which are not authorised should be reported to the Inspector-General of Prisons in accordance with Jail Code Rule 96.

Detenu Babu Makhan Lal Datta.

209. Mr. NARENDRA CHANDRA DATTA (on behalf of Mr. Kamini Kumar Dutta): Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether it is a fact that Babu Makhan Lal Datta of Chandpur, while at Deoli Camp, had his right hand injured;

(*b*) if so, what it was due to;

(*c*) whether any operation has been performed to remedy the said injury in the hand; and

(*d*) what is the present condition of his health?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) No injury to the hand was sustained.

(*b*) and (*c*) Do not arise.

(*d*) Good.

Detenu Babu Keshab Prasad Sarma.

210. Mr. NARENDRA CHANDRA DATTA (on behalf of Mr. Kamini Kumar Dutta): Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether one Keshab Prasad Sarma of district Gaya is being detained in custody in Deoli Detention Camp;

(*b*) under what provision of law he was arrested and where and when;

(*c*) by order of which Government he was arrested;

(*d*) under order of which Government he is being still detained in custody and under what provision of law;

(*e*) whether he did apply for information as to under what provision of law and under whose order he was being detained;

(*f*) if the answer to (*e*) be in the affirmative, whether the information was supplied to him; and

(*g*) whether it is a fact that this Keshab Prasad Sarma is not a resident of Bengal and does not know Bengali language and was arrested outside Bengal?

The Hon'ble Khwaja Sir NAZIMUDDIN: The individual is no longer in detention under the orders of this Government.

Settlement Operations.

211. Rai Sahib JATINDRA MOHAN SEN: Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

(*a*) whether Dinajpur is the only district in Bengal where settlement operations are going on and whether such operations have been finished or are about to be finished in all other districts of the Province;

(*b*) whether the landlords of all these districts have taken advantage of the provisions of sections 30, 52 and 105 of the Bengal Tenancy Act for enhancement of rent or for settlement of rent after the settlement operations were finished;

(*c*) whether it is a fact that the Government have issued a circular to the Collector and Settlement Officer of Dinajpur asking them to impress upon the landlords, the futility of filing or proceeding with applications under section 105 in view of the proposed amendment of the Bengal Tenancy Act;

(*d*) if so, whether as a result of the actions taken by these officers, most of the *zemindars* have either ceased to file or ceased to proceed with such applications;

(*e*) whether the Government propose to remit half the cost of recovery from such *zemindars* who have acted according to the advice of these officers; and

(*f*) whether the Government have received applications from the *zemindars* for a refund of court-fees which they had paid for their applications under section 105 of the said Act and whether such refund has been recommended by the Director of Land Records and whether Government have passed orders on such applications?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) Major settlement operations are now in progress in Hooghly, Howrah, Rangpur and Dinajpur districts. In the remaining districts, excepting Chittagong Hill Tracts, to which Bengal Tenancy Act does not apply, such operations have already been completed.

(*b*) Yes, but it is necessary to explain that the majority of section 105, Bengal Tenancy Act proceedings are completed before a settlement is treated as closed.

(*c*) A copy of the circular is laid on the Library table.

(*d*) This may be so. Government have no definite information on the subject.

(*e*) No.

(*f*) One such application has been received from the Maharaja of Dinajpur, which is still under consideration.

Rai Sahib JATINDRA MOHAN SEN: With reference to answer to question (*d*), will the Hon'ble Minister be good enough to get information whether as a matter of fact the *zemindars* have either ceased to file applications or ceased to proceed with such applications?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is very difficult to obtain definite information. Government will try to do so as far as practicable.

Rai Sahib JATINDRA MOHAN SEN: With reference to answer to question (*e*), will the Hon'ble Minister be pleased to state whether it is a fact that the *zemindars* have been made to forego a very substantial right which they have been all along enjoying?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is so.

Rai Sahib JATINDRA MOHAN SEN: In view of the answer given, will the Hon'ble Minister be pleased to state whether Government still propose to remit a portion of the recovery from the *zemindars*?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: At least no such decision has been arrived at. The matter has not been considered in that light.

Rai Sahib JATINDRA MOHAN SEN: Will the Hon'ble Minister be pleased to state whether Government will consider this matter, because it affects vitally the interests of the *zemindars*?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes; Government will be pleased to consider the question.

Mr. RANAJIT PAL CHOUDHURY: With regard to question (*c*) will the Hon'ble Minister be pleased to state if the proposed amendment debars members from taking shelter under the present Bengal Tenancy Act?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: What does the hon'ble member mean by "taking shelter under the Bengal Tenancy Act"?

Mr. RANAJIT PAL CHOUDHURY: Question (*c*) was "whether it is a fact that Government have issued a circular to the Collector and Settlement Officer of Dinajpur asking them to impress upon the landlords the futility of filing or proceeding with the application under section 105 in view of the proposed amendment of the Bengal Tenancy Act," and the answer that has been given is "a copy of the circular is laid on the library table".

Mr. PRESIDENT: What is your supplementary question?

Mr. RANAJIT PAL CHOUDHURY: My supplementary question is whether the proposed amendment invalidates the present Act.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Certainly not.

Rai Sahib JATINDRA MOHAN SEN: In reply to question (*b*) the answer given is "Yes, but it is necessary to explain that the majority of section 105, Bengal Tenancy Act proceedings are completed before a settlement is treated as closed." May I know what the Hon'ble Minister means by "majority of section 105?"

Mr. PRESIDENT: The language is not clear.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It means majority of cases under section 105.

Raiyats and under-raiyats.

212. Mr. SHRISH CHANDRA CHAKRAVERTI (on behalf of Mr. Naresh Nath Mookerjee): (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state the number of *raiyats* and under-*raiyats* in the Province of Bengal?

(*b*) Is it a fact that the average holding of a cultivating *raiyat* or under-*raiyat* does not exceed five *bighas* of land?

(*c*) Is the Hon'ble Minister aware that the average *raiyat's* or under-*raiyat's* annual earning from land is not sufficient to maintain himself and his family throughout the year?

(*d*) Do the Government consider the necessity of taking steps to increase the average income of the agriculturists of Bengal?

(*e*) If the answer to (*d*) be in the affirmative, what steps have the Government taken for that purpose?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) and (*b*) Accurate statistics about this are unfortunately not available. The chief difficulty arises from the complexity of the land tenure system in Bengal. The average area of each *raiyati khatian* is 1·90 acres and of each under-*raiyati khatian* ·70 acres but many families hold several *khatians*. And the average size of the family is difficult to estimate.

(*c*) No, but many cultivators have a hard struggle, especially when prices are low and crops are poor.

(*d*) Yes.

(*e*) The canals opened by the Irrigation Department have increased the productivity of certain areas, and the Agriculture Department has increased the average yield of sugarcane, jute and paddy in many areas by introducing improved varieties and recommending improved methods of agriculture including the use of manures. The Agriculture Department is also taking steps to improve the marketing of agricultural products.

Mr. HAMIDUL HUQ CHOWDHURY: With reference to (*e*) which says that the Agriculture Department has increased the average yield of sugar cane, jute and paddy in many areas, do the "areas" here mean their own farms controlled and managed by the Agriculture Department?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir.

Recruitment of Deputy Registrars in the High Court.

213. Rai MANMATHA NATH BOSE Bahadur: Will the Hon'ble Minister in charge of the Judicial and Legislative Departments be pleased to state—

(*a*) the present method of recruitment in the High Court, Appellate Side, to the post of Deputy Registrar;

(*b*) the minimum qualification required for the post; and

(*c*) whether the Public Service Commission is to be consulted in the matter of recruitment to such posts?

MINISTER in charge of the JUDICIAL and LEGISLATIVE DEPARTMENTS (the Hon'ble Nawab Musharruf Hossain, Khan Bahadur): The Chief Justice has authority under clause 8 of the Letters Patent and under section 241 (*1*) (*b*) read with section 242 (*4*) of the Government of India Act, 1935, to make appointments to posts in the High Court. By the courtesy of the Chief Justice I am able to say that draft rules prescribing the qualifications of candidates and conditions of service are under his consideration.

Appointment of Co-operative Auditors and Inspectors.

214. Khan Bahadur ATAUR RAHMAN (on behalf of Mr. Nur Ahamed): Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state—

(*a*) how many Co-operative Auditors and Inspectors have been recently appointed in the Co-operative Department;

(*b*) how many of them are Moslems and how many are non-Moslems;

(*c*) how many from each other districts of the Province and how many from the district of Chittagong; of these how many are Moslems and how many non-Moslems; and

(*d*) why the district of Chittagong has been given so poor a representation and her claim has been ignored in the case of these appointments?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) Thirty-three Inspector-candidates and forty-eight Auditor-candidates have been selected for training. Appointment of the required number of Inspectors and Auditors will be made on the results of a competitive examination at the close of the training.

(*b*) Out of the Inspector-candidates selected sixteen are Muslims and seventeen non-Muslims. Out of the selected Auditor-candidates twenty-two are Muslims and twenty-six non-Muslims.

(*c*) A statement is laid on the Library table.

(*d*) Selection on a strictly territorial basis is not in the public interest, but due consideration is given to all parts of the Province: the selection of three candidates from Chittagong shows that that district was not ignored.

Audit fees realised from Bogra District.

215. Khan Bahadur MOHAMMAD IBRAHIM: (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state the total amount of audit fees realised from the Bogra district during the period between 1931 and 1937?

(*b*) Are the salaries of the Auditors paid from the audit fees?

(*c*) Will the Hon'ble Minister be pleased to state whether any Auditor was appointed from Bogra district?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: (*a*) The amount of audit fees realised from Bogra district during the period between 1931-32 and 1936-37 is Rs. 81,125-9.

(*b*) Yes.

(*c*) In the past seven Auditors and recently one Auditor-candidate for training have so far been appointed from Bogra district.

Khan Bahadur MOHAMMAD IBRAHIM (in Bengali): With regard to (*c*), I wanted to know whether any auditor was appointed from Bogra district between 1931-32 and 1936-37. The Hon'ble Minister has said that seven auditors were appointed during this period, but so far as I know, no auditor has been appointed at all during that period. Will the Hon'ble Minister kindly give me the correct answer?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, the question of the hon'ble member was whether any auditor was appointed from the Bogra district, and my answer thereto is, "in the past seven auditors and recently one auditor-candidate for training has so far been appointed from Bogra district." I think, Sir, that is a proper answer to this question.

Khan Bahadur MOHAMMAD IBRAHIM (in Bengali): Is the Hon'ble Minister prepared to contradict me if I say that no auditor has been appointed from the Bogra district during this period, and will he allow me to tell of many other unpleasant things?

Mr. PRESIDENT: Order, order. I think the Khan Bahadur wanted to know whether during the period 1931-37 any auditors were appointed from Bogra, and the Hon'ble Minister has replied that seven auditors in the past were taken in; presumably the Khan Bahadur's contention is that, "in the past," does not mean "during 1931-37". The Khan Bahadur from his personal knowledge happens to know that no auditors have at all been appointed from Bogra during the aforementioned period.

Mr. HUMAYUN KABIR: Has any one been at all appointed an auditor from Bogra since 1931?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: So far as the first part of the question is concerned, I ask for notice, but as regards the latter part, I can say that one gentleman has been appointed as auditor from Bogra.

Khan Sahib ABDUL HAMID CHOWDHURY: Sir, this morning we were supplied with a draft set of questions, and in column 3 of that draft I find that certain questions were due to be answered to-day, but from the printed questions and answers laid on our table, I find they are not the same questions. May I know the reason for this?

Mr. LALIT CHANDRA DAS: Sir, I want to renew my complaints about a large number of questions still remaining unanswered, and no explanation has been given as to why they have not been answered.

Mr. PRESIDENT: Order, order. The Hon'ble Mr. Nalini Ranjan Sarker promised the other day that he would make an enquiry, and let me here quote his exact words "I have not been able to enquire of any other department, so far as my own department and the Revenue Department are concerned, there were no questions in default."

I do not know whether Sir Nazimuddin or any other Hon'ble Minister is in a position to say anything with regard to questions affecting other departments.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, so far as the Home Department is concerned, I am in a position to say that a very large number of questions have been answered. Even to-day my answers

form the bulk of those set down on the agenda. As I have repeatedly pointed out, it is not possible to answer all the questions within fifteen days' time, and you very kindly stated that if it was not possible to do so, this should be stated in the House. Unfortunately, answers have not yet been made ready to all the questions that have been received, and I may say that already 215 questions have been answered by the various Ministers, and every step is being taken to answer the remaining questions. As between the Council and the Assembly, the proportion of questions that have been answered in the Council is practically two to one.

Mr. HUMAYUN KABIR: With regard to certain questions which were not answered during the last session, we were told that it would not be necessary for us to give fresh notice of them, and accordingly we did not; yet there are some questions which have not been answered up till now. What is the position in regard to those questions?

Mr. PRESIDENT: So far as the question raised by Khan Sahib Abdul Hamid Chowdhury is concerned, I think, we have to-day several questions which were due long before, and I further understand that the Ministers are anxious to meet our wishes, keeping in view the requirements of the Rules and Standing Orders. I have made enquiries in the office and have found that of the questions that were due from the Home Department by the end of February, thirty-four are still pending which should have been answered before the end of the month. So far as the Department of Communications and Works is concerned, three questions are pending; in the Department of Commerce and Labour, nine were due to be answered by the end of February; in the Agriculture and Industries Department four; in the Finance Department,—I regret to say that the Finance Minister's statement that no questions are pending in his department was not correct—two questions, both by Mr. Shrish Chandra Chakraverti, are still pending from the 16th February. Then in the Education Department, eleven questions which were due in February have not yet been answered. I understand that an effort is being made by the Ministers to answer them, and now we have adopted the procedure of issuing admitted lists of questions from which the Hon'ble Ministers will easily know when a particular question will be due for answer and I hope that in future such cases of delay in answering questions will be rare.

Mr. HAMIDUL HUQ CHOWDHURY: In the last session in answer to certain questions it was pointed out that the information was not yet ready and that as soon as it would be ready, it would be despatched to the member concerned. But so far as I am concerned, I have not received any information.

Mr. PRESIDENT: I hope the Hon'ble Ministers will try their best to keep the promise made and meet the wishes of the members.

The Hon'ble Khwaja Sir NAZIMUDDIN: If the hon'ble members will only intimate either verbally or in writing to which of the questions they require an answer, I am sure the Ministers will be pleased to furnish the information asked for. Sometimes it happens that a large number of questions which have not been answered, are overlooked.

Mr. PRESIDENT: I think when an Hon'ble Minister promises that an answer will be given, it should be the duty of his department to see that the promise made by the Hon'ble Minister is fulfilled.

MESSAGES FROM THE BENGAL LEGISLATIVE ASSEMBLY.

The Bengal Legislative Chambers (President's and Speaker's) Salaries Bill, 1937.

Mr. PRESIDENT: The Secretary will now read the message received from the Legislative Assembly regarding the Bengal Legislative Chambers (President's and Speaker's) Salaries Bill, 1937.

The SECRETARY to the COUNCIL (Mr. K. N. Mazumdar): The following messages has been received from the Secretary, Bengal Legislative Assembly Department:—

"In pursuance of section 81 of the Bengal Legislative Assembly Rules and Standing Orders, I am directed to convey the message that the Bengal Legislative Assembly at its meeting held on the 1st March, 1938, has not agreed with the amendment made by the Bengal Legislative Council to the Bengal Legislative Chambers (Presidents's and Speaker's) Salaries Bill, 1937."

Mr. PRESIDENT: Under section 88 of the Rules and Standing Orders, this Council will have to decide whether this Council will agree to the Bill as passed in the Assembly or will return the Bill with the message that it insists on an amendment or amendments to which the Assembly has disagreed. So, the question will have to be put before the House. I do not know if the House will desire to take it up to-day or on a later date.

Mr. HUMAYUN KABIR: May we know if the amendments which were carried in this House were considered in the Assembly, and if so, what was the result of that consideration?

Mr. PRESIDENT: The message has been read and we cannot add anything further to that.

Mr. HAMIDUL HUQ CHOWDHURY: May we ask whether this Bill was moved or taken into consideration by the Lower House?

Mr. PRESIDENT: The message says that the Assembly did not agree to the Bill, that is all before the House.

The Hon'ble Khwaja Sir NAZIMUDDIN: I would ask for your ruling on this subject. This is a question of what the official procedure is, according to which the message has been sent.

Mr. PRESIDENT: You are not bound to answer any question if you do not desire to. It is entirely in your discretion.

The Hon'ble Khwaja Sir NAZIMUDDIN: It is not a question of discretion, it is a formal matter of procedure, and I think this House should be guided by the official procedure and not by any other extraneous matter which may be supplied on an occasion like this.

Mr. PRESIDENT: My difficulty is, there is no Leader of the House and the Hon'ble Ministers do not happen to be members of this House, and I cannot ask for their opinion whether this subject should be taken up to-day or on any other day.

The Hon'ble Mr. NALINI RANJAN SARKER: As I told you before, I cannot give the date just now without looking to our programme, and Government will fix a day for the consideration of this matter later on.

Mr. PRESIDENT: The statement must be made in the House.

The Hon'ble Mr. NALINI RANJAN SARKER: In view of the fact that the Bengal Legislative Assembly has not agree with the amendment made by the Bengal Legislative Council to the Bengal Legislative Chambers (President's and Speaker's) Salaries Bill, 1937, the question, whether this Council will again send it back or insist on the amendments will be considered by this House on a different date which will be announced later on.

The Bengal Insurance Fund Bill, 1937.

Mr. PRESIDENT: The Secretary will now read the message received on the Bengal Famine Insurance Fund Bill, 1937.

The SECRETARY to the COUNCIL (Mr. K. N. Mazumdar): The following message has been received from the Secretary, Bengal Legislative Assembly:—

"In pursuance of section 81 of the Bengal Legislative Assembly Rules and Standing Orders, I am directed to convey the message that the amendment made by the Council to the Bengal Famine Insurance Fund Bill, 1937, has been agreed to by the Bengal Legislative Assembly at its meeting held on the 1st March 1938."

Accommodation for the Bengal Legislative Council.

Mr. HUMAYUN KABIR: Sir, before we proceed to further business of the day, I should like to draw your attention to another question of privilege of this House in connection with something which was brought up the other day by the Hon'ble Khwaja Sir Nazimuddin, the Minister for Home affairs—

Mr. PRESIDENT: Order, order. Let something be moved in the House before you take up the point.

The Hon'ble Mr. PRASANNA DEB RAIKUT: Sir, I beg to move that the Bengal Rhinoceros Preservation (Amendment) Bill, 1937, as passed by the Assembly be taken into consideration.

Mr. HUMAYUN KABIR: May I now raise my point, Sir?

Mr. PRESIDENT: Yes.

Mr. HUMAYUN KABIR: I would suggest, Sir, that we now take up the matter which arose out of a statement made by Hon'ble Khwaja Sir Nazimuddin, Minister for Home affairs, in connection with the privileges of this House. The other day in consideration of the question of a separate building for the Legislative Council, he suggested that there should be a Committee appointed by this House to go into the question and enquire whether arrangements could not be made so as to fit the time of the Assembly and this Council and have the sittings together in this very House or whether separate accommodation would be necessary. May I move that the matter be referred to the Privilege Committee which has already been constituted by this House, and for the purposes of this, this Privilege Committee served as the Committee to which reference was made by the Hon'ble Minister.

Mr. PRESIDENT: Mr. Humayun Kabir well understands that the question of privilege is entirely a separate matter, and he can raise

it at any other time he likes. I cannot quite feel how it is relevant in connection with this Bill.

Mr. HUMAYUN KABIR: It is not a question on this Bill, Sir. It is a question of privileges of this House in this way that our sittings, particularly meetings of Select Committees and such other affairs are often interfered with, because we do not know what are our rights with regard to this building. Since that question was raised, I suggest that it may be referred to the Privilege Committee.

Mr. PRESIDENT: The hon'ble member can raise that question separately whenever he likes to do so.

Mr. HUMAYUN KABIR: Sir, I wanted to raise that point as soon as the question time was over, and I raised that point, but you asked me to raise it after the Hon'ble Minister had moved for the consideration of his Bill.

Mr. PRESIDENT: There was some misapprehension. You are entitled to raise any question of privilege when the question time is over and the list of business for the day is taken up. I thought your question was in connection with the Rhinoceros Bill. The proper course would have been to say "I rise on a question of privilege." Then that should have precedence over all other matters. However, if you now formally raise your point of privilege, the question of Rhinoceros Amendment Bill will be taken up afterwards.

Mr. HUMAYUN KABIR: May I then formally raise the point which I had already raised? Need I make the statement again?

Mr. PRESIDENT: You please repeat it.

Mr. HUMAYUN KABIR: Sir, I would draw your attention to the inconveniences from which members of this House are suffering, and in connection with the suggestion which was thrown out by the Hon'ble Home Minister that a Committee of this House might be appointed in order to examine the question as to whether a separate building is necessary or as to whether arrangements can be made by which the Legislative Assembly and the Legislative Council can by mutual accommodation hold their sittings and select committees and other types of work in the same building, may I suggest that the Privilege Committee which was constituted by this House may be regarded to be such a committee for this purpose and the matter may be referred to the Privilege Committee and the question examined by them.

The Hon'ble Khwaja Sir NAZIMUDDIN: On a point of order, Sir. I do not in any way want to question your ruling or express any

opinion on it, but I would just like to draw your attention, with a view that there may not be a precedent created, whether it is in order after a motion has been formally moved to keep that motion in suspense and take up a question of privilege. I fully agree, Sir, that a privilege motion has got precedence as long as there is no other motion before the House,—I do not object to this being taken up, but I do not want a precedent to be created,—but once a moton has been moved, in the midst of that can it be suspended and another motion taken up?

Mr. PRESIDENT: The question that has been raised by the Hon'ble Sir Nazimuddin has been amply answered in all books of authority. A question of privilege can be raised at any stage in the midst of any other speech, and it will have precedence over any other motion even by stopping it in the midst, though it is very much desirable that such motions should be raised after the question hour and before the list of business is taken up. So, Sir Nazimuddin is correct, so far as it goes, that generally these motions should not be raised in the midst of any other motion. But when he wants to know the authority, I can tell him definitely that any member will be perfectly within his right, if such an emergent matter arises about the privileges of the House, to raise it at any time, and that opinion is backed by authorities in all parliamentary institutions.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I support Mr. Humayun Kabir's suggestion, the first part of it at any rate, as regards the immediate necessity of appointing a Committee. As regards the second part whether that should be the Privilege Committee or some other Committee to be appointed by the House, let the House decide. I have not got anything to suggest. It is necessary that some arrangement should be made immediately, because we are, as a matter of fact, suffering from certain inconveniences as also the members of the other House with regard to the question of accommodation not only for the sittings of this House but also for the Select Committees. The question of accommodation for offices and various other questions have to be decided, and it is better, Sir, during the Budget Session some sort of negotiations between the two Houses should be arranged so that things may be more amicably and conveniently settled.

Mr. PRESIDENT: Only a question of privilege and no other motion can be entertained by the House at this stage without any notice. So, if it is a question of privilege and the House decides it to be so, then alone it can be discussed and referred to that Committee.

Mr. LALIT CHANDRA DAS: Sir, in my view it is not a question of privilege which need be referred to the Committee of Privileges. It is a particular point to which Sir Nazimuddin drew our attention

that there should be a Committee of this House and also there should be another Committee of the Assembly, and after these two Committees are formed, the Government will arrange that they should meet for the purpose of deciding whether we should have a separate Council House, or even if we do not have a separate Council House, whether arrangements can be made by division of time that both the Houses can sit in this very House. The duties of the Privileges Committee cannot be so extended as to include within its grasp a specific matter which has arisen, a particular matter which should be the subject-matter for consideration by Committees of both the Houses. In this connection the only question for decision will be whether we should have a separate House or not, and if not a separate House, whether the timings can be so divided that both the Houses can sit in the same Chamber. I submit respectfully, Sir, that this is not a question of privilege. It should be decided by separate Committees, one of this House and another of that House and both the Committees should sit together after Government gives direction.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I agree with the views expressed by Mr. Das, specially in view of the fact that this House expressed its definite opinion about the necessity of another building. Now it is a question of procedure as to how to give effect to that resolution, what type of building, at what cost, on what specification and with what accommodation, and failing that whether it is possible to have the sittings of both the Houses in this Chamber. So, the question of privilege does not arise. It is a question of appointing a Committee to go into the question of housing.

This being a very important question, I think, we should obtain the consent of the leaders of the various groups and suggest a Committee or if the House so desires, Government can move a special motion, fix a day and suggest a Committee for this purpose, or if the House so decides that their Privilege Committee should go into this matter, Government will leave it entirely to the wishes of the House.

Mr. HAMIDUL HUQ CHOWDHURY: On a point of explanation, Sir. What I want to say is that even if a building is built, there is bound to be an interim period. The Committee itself will go into this question of interim period also. This is very important for the purpose.

Mr. LALIT CHANDRA DAS: May I say one word, Sir. Our privileges should not be encroached upon by the Government. Now, Sir, in the matter of appointing a Committee it should be the function of the members of this House to move for a Committee of our own and not of the Government. It would be encroaching upon our privileges if they do so.

Mr. PRESIDENT: Let Mr. Humayun Kabir now definitely propose what he means. He will distinctly understand that he cannot move any motion at this stage without proper notice unless that motion relates to the question of privileges of the House.

Mr. HUMAYUN KABIR: Sir, I beg to move that the question of the efficient carrying out of the functions of the members of this House and the right of the sole use or the joint use in the question of the sittings of the Chamber as well as of Select Committees be referred to the Privilege Committee to examine whether a separate building is necessary or whether both the Houses may use the same Chamber by mutual agreement.

Mr. PRESIDENT: Order, order, as regards the first part, whether a separate Chamber is necessary, the House by its own vote has decided that issue.

Mr. HUMAYUN KABIR: I shall add the words "for the interim period."

The Hon'ble Mr. NALINI RANJAN SARKER: First make up your mind and then suspend the business of the House.

Mr. HUMAYUN KABIR: The question may be referred to the Privilege Committee to examine what arrangements can be made for the interim period.

Mr. PRESIDENT: Please hand it over to me. I shall have to read it out.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I would submit that it will be a duplication of the same work.

Mr. PRESIDENT: It may be settled between the mover and the Hon'ble Home Minister whether it should be put or not.

The Hon'ble Khwaja Sir NAZIMUDDIN: It will be far better if you appoint a committee. It is no use dividing into interim periods and other periods. Sir, it will complicate matters. There will be two committees. The Privilege Committee will go into it and you will have to appoint another committee for this House. Then two committees will be working on the same thing. I think that would be much better because, after all, we have got to evolve some formula which will be acceptable to all.

The Hon'ble Mr. NALINI RANJAN SARKER: Is this such a kind of privilege as to call for the suspension of the whole work of the Council?

Mr. PRESIDENT: That motion is nothing else than a privilege motion.

Mr. NARENDRA CHANDRA DATTA: It is a special privilege.

Mr. PRESIDENT: Order, order, in the meantime the Hon'ble Home Minister has suggested and as I could understand the sense of the House the other day also, to have a joint committee to thresh out this matter, I would advise Mr. Humayun Kabir not to press his motion to-day.

Mr. HUMAYUN KABIR: May I have your leave to withdraw the motion?

Mr. PRESIDENT: It has not yet been formally moved. You have only raised a point.

GOVERNMENT BILL.

Bengal Rhinoceros Preservation (Amendment) Bill, 1937.

The Hon'ble Mr. PRASANNA DEB RAIKUT: Sir, I beg to move that the Bengal Rhinoceros Preservation (Amendment) Bill, 1937, as passed by the Assembly be taken into consideration.

Sir, the aim and object have been explained in the Bill. It is to preserve the rare and valuable animals, that stringent measures are required to be taken. In the existing Act, namely, the Bengal Rhinoceros Preservation Act, 1932 (Act VIII of 1932), section 4 provides that all parts of a rhinoceros, killed or captured otherwise than with the permission of the Government, are the property of the Government but no provision exists in the Act to make the possession of the body of rhinoceros or any part of it such as the horns illegal though the Government may claim it. The object of this Bill is to make express provisions in the law prohibiting the possession or sale of rhinoceros's horns or any part of the rhinoceros in Bengal without the permission of the Provincial Government and to provide adequate penalties for the purpose in order to prevent the extinction of it.

Sir, at one time Bengal could boast of these valuable animals. Sunderbans used to contain a large number of rhinoceroses. But now what do we find? We have got not a single rhinoceros there. So it is necessary that we should try to preserve these animals in our forests.

Mr. RANAJIT PAL CHOUDHURY: If there be none, what will you preserve?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Not in Sunderbans but we may have a few, say, 150 to 200, of the animals in Dooars in the district of Jalpaiguri. So, unless we have these measures, it will be impossible to stop poaching. This Bill has been passed by the Legislative Assembly and I hope it will be passed in this House also without any objection.

Mr. PRESIDENT: Order, order. Motion moved that the Bengal Rhinoceros Preservation (Amendment) Bill, 1937, as passed by the Bengal Legislative Assembly, be taken into consideration.

Mr. RANAJIT PAL CHOUDHURY: On a point of information, Sir. May I enquire whether Government keep any statistics as to the number killed or destroyed, I mean census, of these rhinoceroses?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Sir, it is not possible to keep actual statistics or census to show how many of them are killed and how many are bred in the forests, but we have an approximate idea that there are only about 150 to 200.

Mr. RANAJIT PAL CHOUDHURY: I am not speaking of natural deaths, I mean the number of rhinoceroses that are killed or destroyed by human beings or by some other means which are not natural.

The Hon'ble Mr. PRASANNA DEB RAIKUT: Yes, Sir, we have got an approximate idea as to how many of them are destroyed and killed annually.

Mr. KADER BAKSH: Mr. President, Sir, I do not understand the utility for the preservation of this ferocious animal. Now, Sir, there is a Bengali adage which says: " মারি ত' গণ্ডার লুঠি ত' ভাণ্ডার If a *shikari* wants to bag an animal, it is the rhinoceros which he will naturally choose. He thinks that it is this sort of big game that should be bagged. I repeat, Sir, that I do not understand clearly the utility of a Bill like this for preserving this animal. If anybody wants to kill any big animal, let him go in for the rhinoceros; otherwise, *shikar* will have to be stopped altogether.

Khan Bahadur M. IBRAHIM addressed the House in Bengali. The following is the English translation of his speech:—

Mr. President, Sir, in my younger days I read in Pandit Madan Mohan Tarkalankar's Sisusiksha, Part III, that shields used to be

made from the hide of the rhinoceros and that it was impervious to swords and bullets. This shows that shields were at that time used in war and the rhino's hide was in demand for making shields. A fight between two warriors, both being in chariots, is no longer the order of the day. This is an age of scientific warfare. Hence, shields are of no use and I do not think it will serve any useful purpose to preserve the rhinoceros. Among men there are also such thick-skinned individuals as are impervious to sharp words. Hence, I am prepared to support this Bill if it is so amended as to include in the definition of the rhinoceros men of this type. In the Hitopadesa I read that the counsels of the aged ones should be accepted when danger threatened. The rhino is faced with a great danger! Like the mountain in labour producing a mouse, the Hon'ble Minister has presented this very important Bill, after nearly a year's research work to save the rhino from the imminent danger, and when an aged person like me has found his way to support it, I appeal to the hon'ble members of this House not to go against this Bill in order that the rhino may be saved from the imminent danger.

Rai Sahib INDU BHUSAN SARKER: Mr. President, Sir, I rise on a point of information. I should like to know in which part of Bengal is rhinoceros available?

Mr. PRESIDENT: That has already been answered.

The Hon'ble Mr. PRASANNA DEB RAIKUT: I have already stated that it is found in the Dooars in the Jalpaiguri district.

Rai Sahib INDU BHUSAN SARKER: May I know how many of them are available?

Mr. PRESIDENT: That, too, has been answered. The question before the House is that the Bengal Rhinoceros Preservation (Amendment) Bill, 1937, be taken into consideration.

The motion was agreed to.

Clause 1.

The Hon'ble Mr. PRASANNA DEB RAIKUT: Sir, I beg to move that clause 1 do stand part of the Bill.

Mr. PRESIDENT: The question before the House is that clause 1 do stand part of the Bill.

Mr. NUR AHAMED: Mr. President, Sir, I beg to state that I do not want to move any of the three amendments that stand in my name.

The motion that clause 1 stands part of the Bill, was agreed to.

Clause 2.

The motion that clause 1 stands part of the Bill, was agreed to. that clause 2 do stand part of the Bill.

Mr. PRESIDENT: The question before the House is that clause 2 do stand part of the Bill.

The motion was put and agreed to.

Clause 3.

The Hon'ble Mr. PRASANNA DEB RAIKUT: Sir, I beg to move that clause 3 do stand part of the Bill.

Mr. PRESIDENT: The question before the House is that clause 3 do stand part of the Bill.

The motion was agreed to.

Title and Preamble.

The Hon'ble Mr. PRASANNA DEB RAIKUT: Sir, I beg to move that the title and preamble be added to the Bill.

Mr. PRESIDENT: The question before the House is that the title and the preamble be added to the Bill.

The motion was agreed to.

The Hon'ble Mr. PRASANNA DEB RAIKUT: Sir, I beg to move that the Bengal Rhinoceros Preservation (Amendment) Bill, 1937, as settled in this Council be passed.

Mr. NARENDRA CHANDRA DATTA: Is the year 1937 or 1938?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Now it is 1937, but after it is passed the year will be changed to 1938.

Mr. LALIT CHANDRA DAS: But you have not corrected it yet?

Mr. PRESIDENT: That will be done by the office.

Motion moved: That the Bengal Rhinoceros Preservation (Amendment) Bill, 1937, as settled in this Council be passed.

Mr. NAZIRUDDIN AHMAD: Mr. President, Sir, at the time when the Bengal Rhinoceros Preservation Act, 1932, was passed, in the Statement of Objects and Reasons it was stated: "It has been found that illicit killing of rhinoceroses is on the increase on account of high prices offered for their horns and unless adequate protection is afforded, the animal is likely to become extinct in Bengal in the near future" and so forth.

Then there were two or three clauses which provided for penalizing, killing, injuring and capturing of wild rhinoceroses. The present Bill simply extends the Act to possessing, selling or buying of any part of a rhinoceros. The omission of this provision was a defect in the previous Act, and in view of the difficulty of finding evidence of actual killing of a rhinoceros it is necessary to make the possession, selling, or buying any part of a rhinoceros an offence.

Sir, I support the motion.

Mr. PRESIDENT: The question before the House is that the Bengal Rhinoceros Preservation (Amendment) Bill, 1937, as settled in this Council be passed.

The motion was agreed to.

Mr. PRESIDENT: The Bill is passed.

Adjournment.

The Council then adjourned till 3-30 p.m. on Friday, the 11th March, 1938.

Members absent:

The following members were absent from the meeting held on the 4th March, 1938:—

(1) Banerjee, Rai Bahadur Keshab Chandra.
(2) Chowdhury, Mr. Humayun Reza.
(3) Dutta, Mr. Kamini Kumar.
(4) Ismail, Khwaja Muhammad.
(5) Goswami, Mr. Kanai Lal.
(6) Hosain, Khan Bahadur Saiyed Muazzamuddin.
(7) Jan, Khan Bahadur Shaikh Muhammad.
(8) Lamb, Mr. T.
(9) McFarlane, Mr. J.
(10) Mookerjee, Mr. Naresh Nath.
(11) Mookerji, Dr. Radha Kumud.
(12) Mukherji, Rai Bahadur Satis Chandra.
(13) Ray Chowdhury, Maharaja Sir Manmatha Nath, of Santosh.
(14) Sinha, Rai Bahadur Surendra Narayan.
(15) Wilmer, Mr. D. H.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 11th March, 1938, at 2-35 p.m., being the twentieth day of the First Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Death of Babu Harendra Nath Munshi in Dacca Jail.

216. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether political convict Babu Harendra Nath Munshi expired in the Dacca Jail on the 30th January last;

(*b*) when the aforementioned Harendra Munshi went on hunger-strike;

(*c*) whether the deceased Mr. Munshi was suffering from heart disease;

(*d*) what his ailment was, and from when he was suffering;

(*e*) whether it is a fact that his end came as a result of forcible feeding through the nose as stated in the papers;

(*f*) what his death was due to;

(*g*) whether it is a fact that Dr. Bhupal Chandra Bose, another political convict suffering from tuberculosis, is hanging between life and death;

(*h*) whether he is having temperature;

(*i*) what is his weight now;

(*j*) whether the Government propose to release him under section 401 of the Criminal Procedure Code;

(*k*) whether the Hon'ble Minister will be pleased to issue a statement showing the history sheet of illness of each of the hunger-strikers in the Dacca Jail;

(*l*) whether forcible feeding is adopted in case of each or any of these hunger-strikers; and

(*m*) whether the Hon'ble Minister proposes to release them in view of the apprehended imminence of their death?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) Yes.

(*b*) January 21st.

(*c*), (*e*), (*g*), (*h*), (*j*) and (*k*) No.

(*d*) His general physique was poor, but he was not suffering from any specific ailment before he went on hunger-strike.

(*f*) Heart failure consequent upon starvation.

(*i*) 101 lbs.

(*l*) Yes.

(*m*) They are not in danger.

Mr. LALIT CHANDRA DAS: Arising out of the answer to clause (*g*), will the Hon'ble Minister be pleased to state whether it is a fact that Dr. Bhupal Chandra Bose is now suffering from paralysis?

The Hon'ble Khwaja Sir NAZIMUDDIN: Not as far as I am aware.

Mr. LALIT CHANDRA DAS: Arising out of the answer to clause (*i*), what is the normal weight of a normal healthy young man of thirty?

The Hon'ble Khwaja Sir NAZIMUDDIN: I am afraid, I am not aware of it.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state what was his weight at the time he entered the prison?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice.

Detenu Babu Kumud Behary Sen.

217. Mr. NARENDRA CHANDRA DATTA (on behalf of Mr. KAMINI KUMAR DUTTA): Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether it is a fact that Babu Kumud Behary Sen of Comilla is still in jail;

(*b*) whether cash security was taken from his brother for his release;

(*c*) whether this fact was brought to the notice of the Hon'ble Minister by the detenu himself in the Presidency Jail;

(*d*) how and why security in cash was taken after the announcement was made by the Government of their policy regarding the release of the detenus; and

(*e*) why Babu Kumud Behary Sen is still being kept in detention?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) to (*c*) Yes.

(*d*) The idea of releasing him on cash security was being examined before the announcement, referred to was made but after that announcement the detenu declined to enter into any bond, although the security had by then been deposited. Orders have since been issued to refund the amount.

(*e*) It has not been considered advisable in the public interest to grant release in his case hitherto, but his relatives have been informed that if they secure a definite offer of employment, the matter will be favourably reconsidered.

Lady convict Kumari Parul Mukherjee.

218. Mr. NARENDRA CHANDRA DATTA (on behalf of Mr. Kamini Kumar Dutta): Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether Kumari Parul Mukherjee, a lady convict, has undergone any operation;

(*b*) if so, what was the operation for; and

(*c*) what is the present condition of her health?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Yes.

(*b*) Enlarged tonsils.

(*c*) Improved.

Detenu Babu Atindra Chandra Roy.

219. Mr. NARENDRA CHANDRA DATTA (on behalf of Mr. Kamini Kumar Dutta): Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether it is a fact that Babu Atindra Chandra Roy of Comilla, a detenu now on leave, did ask for pecuniary aid for the performance of the *sradh* ceremony of his father who died recently;

(*b*) whether any grant was allowed for the purpose; if not, why not;

(*c*) whether Babu Atindra Chandra Roy is not in very straitened circumstances;

(*d*) whether he is not in confinement for a long period; and

(*e*) how long he is in confinement?

The Hon'ble Khwaja Sir NAZIMUDDIN: There is no detenu of that name.

Mr. LALIT CHANDRA DAS: Is the Hon'ble Minister aware that there is a political convict in the Presidency Jail of the name Babu Atindra Chandra Roy?

The Hon'ble Khwaja Sir NAZIMUDDIN: I am practically certain that there is nobody by the name of Atindra Chandra Roy.

Mr. LALIT CHANDRA DAS: Is there any such man, Babu Atindra Roy, a political convict, in the Presidency Jail?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice.

Detenu Babu Manindra Kumar Chakravarty.

220. Mr. NARENDRA CHANDRA DATTA (on behalf of Mr. Kamini Kumar Dutta): Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether it is a fact that detenu Babu Manindra Kumar Chakravarty is suffering for a long time from pain in the stomach;

(*b*) whether it is suspected to be from appendicitis; and

(*c*) what is the present condition of his health?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) While at Berhampore he complained of tenderness in the right Iliac region.

(*b*) No.

(*c*) Good.

Interview with Babu Ananta Lal Singh.

221. Mr. NARENDRA CHANDRA DATTA (on behalf of Mr. Kamini Kumar Dutta): (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether it is a fact that Srijukta Indumati Singh, sister of Babu Ananta Lal Singh, one of

the repatriated Andaman prisoners, did apply for interview with her brother, the said Ananta Lal Singh, in Alipore Central Jail in company of her father and mother in January last?

(*b*) Is it a fact that she was not granted the interview?

(*c*) Is it a fact that the Superintendent of the Alipore Central Jail at first sanctioned the interview but it was ultimately disallowed?

(*d*) Does the Hon'ble Minister intend to reconsider the matter and allow her an interview with her brother?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) to (*c*) Yes.

(*d*) I understand that she has been asked to interview her brother on the 13th March, next.

Calcutta Motor Vehicles Department.

222. Mr. RANAJIT PAL CHOUDHURY: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether there are any qualified Indian automobile engineers or even mechanics in the technical side of the Calcutta Motor Vehicles Department?

(*b*) If not, do the Government propose to employ Indians in this department; if not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) No.

(*b*) No. Any alteration in the present arrangements would mean extra expenditure.

Mr. RANAJIT PAL CHOUDHURY: May we know how extra expenditure would be incurred in case of employing Indians?

The Hon'ble Khwaja Sir NAZIMUDDIN: Because these people are already doing the work of Sergeants as well as this work; otherwise the Sergeants' work will have to be done by these people and extra men will have to be employed for this work, that means extra expenditure.

Mr. RANAJIT PAL CHOUDHURY: Are the present Sergeants qualified motor mechanics?

The Hon'ble Khwaja Sir NAZIMUDDIN: They have had all the training in this work.

Mr. RANAJIT PAL CHOUDHURY: Have they got any recognized diploma, or any qualifications from any Engineering Institution?

The Hon'ble Khwaja Sir NAZIMUDDIN: They have got no recognized diploma from any Engineering Institution, but they are trained certificate-holders.

Reduction in the Pay of Certain Services.

223. Khan Bahadur ATAUR RAHMAN (on behalf of Khan Bahadur Saiyed Muazzamuddin Hosain): (*a*) Is the Hon'ble Minister in charge of the Finance Department aware that the best University graduates of Bengal can now compete at the Indian Civil Service Examination without going to England?

(*b*) Is he aware that most of such graduates used to be content with Provincial Service posts, when there was no arrangement for Indian Civil Service Examination in India?

(*c*) Is he aware that the number of first class graduates has considerably increased during the last twenty years?

(*d*) Is he aware that first class graduates are serving in the Education Department on emoluments not higher than that of Junior Bengal Civil Service?

(*e*) Is he aware that first class University graduates are serving as professors in private colleges on Rs. 100 and less?

(*f*) Is he aware that the emoluments in the Bar has considerably decreased during the last ten years owing to overcrowding?

(*g*) Is he aware that the average earning of a member of the legal profession of ten years' standing is not more than Rs. 100 per month?

(*h*) Is he aware that there are many first class graduates and first class Law graduates who do not even get Rs. 100 per month even after ten years' service or practice?

(*i*) Is he aware that the pay of Home civilians ranges from £300 to £800 per year only?

(*j*) Is he aware that the average earning of a Bengali is not even one-tenth of that of a Britisher in England?

(*k*) Is it a fact that the emoluments now fixed for Junior Bengal Civil Service are sufficient for Provincial Services to attract best type of men?

(*l*) Is he aware that exactly same type of men enter Junior and Senior Bengal Provincial Services?

(*m*) Is it a fact that in many cases Junior Service men have been found to be of better ability?

(*n*) Does he propose to further reduce the pay of Provincial Services as well as that of other services whose pay is subject to the vote of the Legislature?

MINISTER in charge of the FINANCE DEPARTMENT (the Hon'ble Mr. Nalini Ranjan Sarker): (*a*) Yes.

(*b*) The examination in India was introduced in order that Indians might compete for the Indian Civil Service without having to incur the expense of going to England. It is doubtless true that a number of men who might have got into the Indian Civil Service, had they been able to afford to go to England, accepted appointment in the Provincial Services.

(*c*) to (*e*) I have no definite information, but I believe hon'ble member's statements are not without substance.

(*f*) I have no definite information, but I believe the emoluments of the more successful members of the Bar continue to remain high. There has probably been some decrease in emoluments in general of members of the legal profession, but I believe overcrowding is only one of the major reasons.

(*g*) I have no definite information, but I believe the average earning of a member of the Bar does not constitute a true index of prospects in the legal profession.

(*h*) Government have no information on the subject. I am aware, however, that the earnings of a person in Government service or in the legal profession are not always commensurate with the academic distinctions attained by him.

(*i*) No. The upper limit of the pay of Home civilians is £3,000 per annum.

(*j*) Economists have said so.

(*k*) I think not.

(*l*) Recruits for the Bengal Civil Service and Bengal Junior Civil Service are chosen on the results of the same competitive examination, but those standing higher in order of merit are taken into the Bengal Civil Service.

(*m*) Cases have occurred.

(*n*) I would refer the hon'ble member to the reply I gave earlier in this session to part (*b*) of question No. 140 put by Mr. H. P. Poddar. A further general reduction of the pay of Provincial and Subordinate Services is not contemplated by the Government.

Pension Commutations.

224. Khan Bahadur ATAUR RAHMAN (on behalf of Khan Bahadur Saiyed Muazzamuddin Hosain): Will the Hon'ble Minister in charge of the Finance Department be pleased to state—

(*a*) how many pension commutation applications were received during the last three years from the members of—

(*i*) the Imperial Services,

(*ii*) the Provincial Services, and

(*iii*) other services;

(*b*) how many applications of each of the above services were granted each year;

(*c*) what amount of money was paid as commuted pension for each kind of service during the last three years; and

(*d*) what is the average period of time taken by the Government to dispose of applications for commutations received from members of each class of service?

The Hon'ble Mr. NALINI RANJAN SARKER: (*a*) to (*c*) A statement is laid on the table.

(*d*) It depends upon the number of applications and the funds available. In recent years, owing to financial stringency, the Provincial and other services have had to wait longer than the Imperial Services.

Statement referred to in the reply to question No. 224.

Year.	Applications received.			Number of applications, together with the amount sanctioned.					
				Imperial Services.		Provincial Services.		Other Services.	
	Imperial Services.	Provincial Services.	Other services.	Nos.	Amount.	Nos.	Amount.	Nos.	Amount.
					Rs.		Rs.		Rs.
1934-35 ..	15	31	193	12	3,49,725	9	87,644	41	80,577
1935-36 ..	12	38	266	7	2,47,244	29	4,78,017	251	5,74,855
1936-37 ..	14	54	421	7	2,24,850	65	8,91,988	416	11,13,931

Sheristadar's Period of Service in a District.

225. Mr. MUKHLESUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state the scale of pay with annual increment of the Sheristadar of Rajshahi Collectorate?

(*b*) Are the Sheristadars of Collectorates under Board's Miscellaneous Rules liable to transfer on completion of five years' service in a district?

(*c*) If the answer to part (*b*) be in the affirmative, will the Hon'ble Minister be pleased to state the names of the Collectorates with the names of the Sheristadars in whose cases the rules of transfer after five years' service were not enforced during the last three years?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) Rs. 200—15—275.

(*b*) Yes.

(*c*) Government are not aware of any case in which the rule was not enforced.

Retirement of the Assistants in the Office of Administrator-General and Official Trustee of Bengal.

226. Mr. RANAJIT PAL CHOUDHURY (on behalf of Khan Bahadur M. Shamsuzzoha): (*a*) Will the Hon'ble Minister in charge of the Judicial and Legislative Departments be pleased to state whether the assistants in the office of the Administrator-General and Official Trustee of Bengal are generally required to retire from service at the age of fifty-five?

(*b*) Are extensions granted to the old incumbents in the office after their full service?

(*c*) If so, how many of them have been granted such extensions and on how many occasions the service of each of them has been so extended?

(*d*) Is it a fact that one-third of the present staff in the assistants' grade are still in the service because more than one extension has been granted to each of them?

MINISTER in charge of the JUDICIAL and LEGISLATIVE DEPARTMENTS (the Hon'ble Nawab Musharruf Hossain, Khan Bahadur): (*a*) and (*b*) The ordinary rules apply, i.e., retirement at fifty-five with provision for extension if this is in the interest of Government service.

(*c*) During the past five years, beginning from 1932-33, nine officers have been granted seventeen extensions. Of these, three officers have been given three extensions each, two officers have been given two extensions each, and four officers have been given one extension each.

(*d*) Out of a total strength of eighty-five, there are only four officers on extension.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state whether it is a fact that the Government rule is not to give extension to Government officers?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: The rule is there and only when an officer has proved himself to be highly efficient that extensions are allowed.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state whether it is only in the department of the Administrator-General that officers prove to be of supernatural efficiency so that they get extensions three or four times in their life?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Yes, that is so.

Appointment of Bank Sarkar in the Office of Administrator-General and Official Trustee, Bengal.

227. Mr. RANAJIT PAL CHOUDHURY (on behalf of Khan Bahadur M. Shamsuzzoha): (*a*) Will the Hon'ble Minister in charge of the Judicial and Legislative Departments be pleased to state whether it is a fact that one non-matric rent-collecting *sarkar* in the office of the Administrator-General and Official Trustee of Bengal, who used to draw Rs. 25 per month, has been appointed by the Superintendent as a bank *sarkar* in the ministerial staff on a pay of Rs. 40—5/2—90 per month?

(*b*) Were there no qualified apprentices fit for this post?

(*c*) If so, why has one of them not been appointed to that post?

(*d*) Were there not any Muhammadan apprentices fit for the said post?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: (*a*) Yes, but the appointment was made by the Administrator-General and Official Trustee, Bengal, and not by the Superintendent who has no power to make such appointments.

(*b*) No.

(*c*) and (*d*) Do not arise.

"Incidentally I may tell my friend that I have now received a report from the gentleman who made this appointment. The report is as follows:—A non-matriculate collecting *sarkar* was appointed to fill the post of bank *sarkar* in the vacancy created by the promotion of the previous holder of that post. The man selected for appointment

to the post of bank *sarkar* was appointed by me and not by the Superintendent of the office—the latter not having any power to appoint and in appointing the individual in question to the post of bank *sarkar*, I appointed the man whom I considered to be the one man out of all others in my office who was best fitted to fill the post. Incidentally he had done the work of the bank *sarkar* whenever circumstances had previously necessitated. He not only knew the work but he was known at the bank and because of that personal touch he could get work done more expeditiously than a new man unknown to the personnel of the bank would have been able to do."

Debt Settlement Boards in Dinajpur District.

228. Rai Sahib JATINDRA MOHAN SEN: (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state—

(*i*) the number of Debt Settlement Boards which have been formed in the district of Dinajpur;

(*ii*) the total number of applications filed by the debtors and the total number filed by the creditors;

(*iii*) the total number of suits and execution cases stayed in Courts and withdrawn by the Boards; and

(*iv*) the total number of such suits and execution cases disposed of by them?

(*b*) Is it a fact that owing to the operation of the Bengal Agricultural Debtors' Act, the agriculturists of Dinajpur are not getting any loan in times of their need?

(*c*) Is it a fact that the agriculturists of Dinajpur are selling their landed properties, cattle or other movable properties for their being deprived of loan facilities?

(*d*) Will the Hon'ble Minister be pleased to state whether he has enquired as to how the provisions of the Act have so far been worked in the various districts of the Province; and, if so, with what results?

(*e*) Do the Government propose to amend the Act as a result of the reports received by them from District Officers regarding the working of the Act?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) (*i*) 279 Boards including three Special Boards.

(*ii*) to (*iv*) Statistics are being gathered. The information will be supplied to the hon'ble member as soon as available.

(*b*) and (*c*) I have no such information.

(*d*) Enquiries are being made from time to time and the difficulties reported are studied, and instructions are issued to meet them.

(*e*) Yes.

Rai Sahib JATINDRA MOHAN SEN: With reference to answers to clauses (*b*) and (*c*), will the Hon'ble Minister be pleased to state whether it is a fact that the District Magistrate is required to submit regularly information as to how the Bengal Agricultural Debtors' Act is being worked and also whether it is a fact that the District Magistrate in the course of his reports from time to time intimated that agriculturists were not getting loans in the villages and that they had to sell their land and other properties for the purpose of securing money?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: With regard to the first part of the question, the answer is in the affirmative. With regard to the second part, I have not yet got any such report from the Collector.

Rai Sahib JATINDRA MOHAN SEN: With reference to answer to clause (*d*), viz., that enquiries are being made from time to time and instructions are being issued about them, will the Hon'ble Minister be pleased to lay on the Library table the circulars which have been given out from time to time?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I have undertaken the preparation of a manual which will contain the Act, the different rulings enunciated by the High Court and the rules that Government have framed. As soon as the manual is ready, it will be circulated to the members.

Mr. KADER BAKSH: With reference to answers to clauses (*b*) and (*c*), will the Hon'ble Minister be pleased to state whether he has tried to get any information from the district authorities on these points, viz., regarding the condition of agriculturists?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I have issued a questionnaire to all District Officers and I think I have received reply from some of the Collectors but not from all. As soon as the replies are received, Government will certainly consider the steps that they will take.

Cases filed with the Rural Debt Settlement Boards.

229. Khan Sahib ABDUL HAMID CHOWDHURY (on behalf of Mr. Syed Muhammad Chaziul Huq): (*a*) Is the Hon'ble Minister in

charge of the Co-operative Credit and Rural Indebtedness Department aware of the fact that a large number of cases have accumulated in the Rural Debt Settlement Boards and most of them have remained undisposed of ever since the establishment of these Boards?

(*b*) Does the Hon'ble Minister propose to take steps to stop such accumulation of undisposed of cases?

(*c*) Does the Hon'ble Minister also propose to take steps in future for speedy disposal of all such cases including those which are already in arrears?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: (*a*) I am aware that cases have accumulated in Debt Settlement Boards.

(*b*) and (*c*) Yes.

Children's Ward of the Medical College Hospital.

230. Begum HAMIDA MOMIN: (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state the number of beds available in the Children's Ward attached to the Medical College Hospital?

(*b*) Is it a fact that the accommodation provided there is very inadequate?

(*c*) Is it a fact that very often sick children, admitted in the Medical College Hospital, have to be placed in beds in the passages in the Women's Ward?

(*d*) Is there any segregation ward in the said hospital for children suffering from infectious diseases?

MINISTER in charge of the PUBLIC HEALTH and LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Syed Nausher Ali): (*a*) The number of beds available in the Children's Wards attached to the Medical College Hospitals, Calcutta, is given below:—

Medical College Hospital (Main Building).

20 beds for general medical and surgical cases.
10 beds for diphtheria cases.

Eye Infirmary.

7 beds for opthalmic cases.

Total 37 beds.

(*b*) Yes. This is believed to be due to the fact that a larger number of patients resort to hospital treatment nowadays than before.

(*c*) Yes, when there is no bed vacant in the Children's Wards, urgent and deserving cases from among the sick children have to be admitted in the female wards.

(*d*) No; except a ward of 10 beds for those suffering from diphtheria as mentioned in (*a*) above.

Begum HAMIDA MOMIN: Will the Hon'ble Minister be pleased to state how many sick children are refused admission usually per month for want of accommodation in the Children's Ward?

The Hon'ble Mr. SYED NAUSHER ALI: Sir, I ask for notice.

Extension of Jadavpur Tuberculosis Hospital.

231. Mr. NARENDRA CHANDRA DATTA (on behalf of Mr. Naresh Nath Mookerjee): (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state whether it is a fact that the authorities of the Jadavpur Tuberculosis Hospital (Calcutta Medical Aid and Research Society) approached the Government for acquisition of more land for the extension of the hospital, and for that purpose an application was submitted by them to the Government in the year 1923 for the acquisition of the area bounded by the Gariahat Road on the west, Station Road on the north, and Kamarpara Road on the south and the hospital compound on the east?

(*b*) Is it a fact that the Society also approached the Government from time to time for financial assistance towards the acquisition of the said area?

(*c*) Is it a fact that during the last session of the Assembly the Hon'ble Minister in charge of Public Health and Local Self-Government Department assured the House that the Government would try their best to provide Rs. 67,000 in their budget for the year 1938-39 to enable the Society to complete the acquisition of the said area?

(*d*) Has the Hon'ble Minister considered the fact that the Land Acquisition Department of 24-Parganas has made considerable delay in acquiring the said area for the Society?

(*e*) Is it a fact that a portion of the said area has in the meantime been proposed to be acquired for the Calcutta Electric Supply Corporation for the purpose of their erecting a Transformer House?

(*f*) Is it a fact that the Land Acquisition Department concerned have not invited any objection to the proposed acquisition for the Calcutta Electric Supply Corporation and have asked the Society to exclude this plot from their acquisition scheme?

(*g*) Is it a fact that the Society has already filed an objection on the following grounds:—

(*i*) that the land would be required for their own purpose; and

(*ii*) that it would not be desirable to erect a Power House in such a close proximity to the hospital compound?

(*h*) (*i*) Do the Government propose to allow the land to be acquired for the Calcutta Electric Supply Corporation in spite of the objections of the Society mentioned in the part (*g*) above?

(*ii*) If not, have the Government requested or do they propose to request the Calcutta Electric Supply Corporation to acquire any plot other than the said area already earmarked to be acquired for the Society?

The Hon'ble Mr. SYED NAUSHER ALI: (*a*) Yes, but the boundaries are more correctly given in notification No. 3834-L.A., dated the 10th April, 1924, a copy of which is placed on the Library table.

(*b*) The Society approached Government from time to time for financial assistance towards various projects including acquisition of various areas of land which did not always coincide with the area mentioned in (*a*).

(*c*) An assurance was given that attempt would be made to provide the sum mentioned by the hon'ble member; but not for acquiring the entire area referred to in (*a*).

(*d*) There has been no delay in the 24-Parganas Land Acquisition Office.

(*e*) and (*f*) The Society having failed to deposit the estimated cost of acquisition of the entire area intended originally for acquisition, the land acquisition proceedings in respect of a portion of the land referred to in (*a*) had to be withdrawn in 1931. Subsequently on the application of the Calcutta Electric Supply Corporation filed on the 8th April, 1937, proceedings for the acquisition of a portion of the land released in 1931, were started on their behalf.

Objections were duly invited according to law, but none was filed by the Calcutta Medical Aid and Research Society within the statutory period.

On the 15th September, 1937, the Society filed an application for acquisition of land including the plot which was already under acquisition on behalf of the Calcutta Electric Supply Corporation.

(*g*) Yes.

(*h*) The matter is under the consideration of Government.

Mr. PRESIDENT: Order, order. I draw the attention of the Hon'ble Minister that there is no parliamentary expression as "Library

table", either it should be "in the Library" or "on the table" which means the table of the Clerk of the House.

The Hon'ble Mr. SYED NAUSHER ALI: I am sorry; in future, I shall follow your instructions.

Nadia District Board.

232. Mr. NARENDRA CHANDRA DATTA (on behalf of Mr. Naresh Nath Mookerjee): (*a*) Is the Hon'ble Minister in charge of the Public Health and Local Self-Government Department aware that the District Board of Nadia at a meeting passed a resolution on the 18th December, 1937, reducing its road cess from six pies to three pies owing to the economic conditions prevailing in the district?

(*b*) Is it a fact that a resolution was discussed on the 22nd January, 1938, for fixing an allowance of Rs. 75 per month for the District Board members in addition to their usual travelling allowance?

(*c*) Is it a fact that on the 22nd January, 1938, the members of the Nadia District Board again resolved that the road cess be levied at six pies to the rupee in supersession of the resolution already passed on this matter on the 18th December, 1937?

(*d*) Is it a fact that the resolution setting aside the reduction of the cess was not unanimous and did not get the support of even two-thirds of the members of the Board?

The Hon'ble Mr. SYED NAUSHER ALI: Information is not available in the Secretariat. A reference has been made to the local officer. The information will be supplied as soon as it is received from him.

Mr. RANAJIT PAL CHAUDHURY: May I submit whether the Hon'ble Minister will be pleased to enquire if any members of the District Board recorded their protests against this procedure?

The Hon'ble Mr. SYED NAUSHER ALI: I think the best course would be for the hon'ble member to put it in a question form so that I may send it down for report.

Charitable Dispensaries.

233. Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state, district by district—

(*a*) the number of charitable dispensaries maintained by the District Boards in Bengal;

(*b*) the number of patients attending such dispensaries;

(*c*) the total cost in purchase of medicines for each district; and

(*d*) *per capita* expenditure for medicines?

The Hon'ble Mr. SYED NAUSHER ALI: A statement furnishing the information relating to the year 1936 is laid on the table.

Statement referred to in the reply to question No. 233.

DISPENSARIES MAINTAINED BY THE DISTRICT BOARDS IN 1936.

	Number of dispensaries.	Number of patients treated.	Cost of medicine.	*Per capita* cost for medicine.
			Rs. a.	As. p.
Bakarganj ..	32	612,531	21,969 0	0 7
Bankura ..	8	119,643	2,323 0	0 3·7
Birbhum ..	14	65,759	4,202 0	1 0
Bogra ..	18	173,932	5,459 0	0 6
Burdwan ..	24	68,381	13,205 0	3 0
Chittagong ..	23	435,626	11,169 0	0 5
Dacca ..	40	535,108	16,720 0	0 5·9
Darjeeling ..	2	14,413	1,534 0	1 8
Dinajpur ..	33	646,655	22,582 0	0 6·7
Faridpur ..	23	80,557	7,463 0	1 6
Hooghly ..	21	129,398	13,536 0	1 8
Howrah ..	15	100,928	6,078 0	1 0
Jalpaiguri ..	6	33,216	3,864 0	1 10
Jessore ..	26	101,578	10,178 0	1 7
Khulna ..	34	185,592	13,980 0	1 2
Malda ..	12	34,371	3,935 1	1 9
Midnapore ..	32	312,901	9,962 0	0 6
	(1936-37).	(1936-37).	(1936-37).	(1936-37).
Murshidabad ..	9	45,688	4,896 0	1 8·5
Mymensingh ..	56	238,540	16,784 0	1 1·5
Nadia ..	32	512,545	12,067 0	0 4·5
Noakhali ..	37	384,725	8,084 0	0 4
Pabna ..	13	207,218	7,400 0	0 6
Rajshahi ..	28	104,288	4,820 0	0 8·8
Rangpur ..	27	145,118	15,919 0	1 9
Tippera ..	24	288,097	11,544 0	0 8
24-Parganas ..	56	231,076	25,458 0	1 9

Medical College Eye Hospital.

234. Begum HAMIDA MOMIN: (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state the number of beds in the Eye Hospital of the Medical College Hospital placed in charge of each Eye Surgeon?

(*b*) Is it a fact that the accommodation is very insufficient and patients are refused admission very often?

(*c*) Is it a fact that the poor patients find it very difficult to get themselves admitted there without recommendation from influential people?

The Hon'ble Mr. SYED NAUSHER ALI: (*a*) The number of beds placed in charge of the Opthalmic Surgeons of the Eye Hospital of the Medical College Hospitals is as follows:—

Professor of Opthalmic Surgery	...	99 beds
Honorary Opthalmic Surgeon (Dr. Mukharji)	...	24 ,,
Honorary Opthalmic Surgeon (Dr. Ahmed)	...	12 ,,
Common to all these three Surgeons	...	4 cabins
Total	...	139 beds

(*b*) Yes, the present accommodation is insufficient to cope with the demand for admission.

(*c*) No such complaint has been received by Government.

Begum HAMIDA MOMIN: With reference to answer to clause (*a*), will the Hon'ble Minister be pleased to state on what basis this unequal distribution of beds is made?

The Hon'ble Mr. SYED NAUSHER ALI: This distribution was made long before I came into office and it is at present under my consideration.

Begum HAMIDA MOMIN: Will the Hon'ble Minister be pleased to state if it is not a fact that the Opthalmic Surgeon in charge has other duties in addition to the treatment of eye cases and his having ninety-nine beds probably interferes with efficient treatment and proper examination of the eye patients?

The Hon'ble Mr. SYED NAUSHER ALI: So far as the first part is concerned, I shall make an enquiry if I am given time; I cannot give any information off-hand. So far as the other part is concerned, it is dependent on the first part and it also involves an expression of opinion.

Salt Industry in Bengal.

235. Mr. REZZAQUL HAIDER CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Forest and Excise Department be pleased to state how much the Government of Bengal have spent up

to date for the development of salt industry in Bengal out of the 16th lakhs of rupees received since 1931 from the Government of India from the Additional Salt Import Duty Fund, and on what items they have spent it?

(*b*) Will the Hon'ble Minister be pleased to state their future policy regarding the salt industry in Bengal?

(*c*) What steps they are going to take in this matter beyond granting some licences to intending manufacturers?

(*d*) Are the Government prepared to give firewood from the forests free of royalty for a certain number of years at least, if not permanently as in Burma, for the development of the industry?

(*e*) Do the Government propose to give long leases of *khas mahal* land in the saline areas for salt factories at nominal rents?

MINISTER in charge of the FOREST and EXCISE DEPARTMENT (the Hon'ble Mr. Prasanna Deb Raikut): (*a*) The hon'ble member is referred to my reply to part (*h*) of question No. 90 asked in this Council on the 2nd February last.

(*b*) and (*c*) Government are always prepared to encourage the development of the salt industry in this province. They have been exploring all possibilities, and encouraging all *bona fide* efforts, for manufacture on a commercial scale. On the recommendation of this Government, a subsidy has been sanctioned for the Chittagong Trading Union by the Government of India, but the company have not yet qualified for a subsidy.

(*d*) As far as the information of this Government goes, no such special concession is given in Burma in favour of salt manufacturers. This Government do not at present see any justification for granting such a concession in Bengal.

(*e*) Government are willing to consider any *bona fide* application on its merits.

Presence of a C. I. D. Reporter in the Council Chamber.

Mr. PRESIDENT: Order, order. The hon'ble the Leader of the Opposition drew the attention of the Chair to the presence of a C. I. D. reporter amongst the reporting staff.

An enquiry has been made and from the facts ascertained, it appears that Bengali reporters are all attached to the office of the Chief Secretary to the Government of Bengal and they are deputed under the orders of the Chief Secretary to whatever department their presence is required. At times, they may have to be sent by the Chief Secretary to do the reporting work in the Criminal Investigation Department. At present, one of them has been deputed to do the reporting work of the Council. It is further understood that this reporter takes down

the speeches and sends the transcribed copies of those reported speeches from Chief Secretary's office. The other reporters are all attached to the various departments, but they are deputed to do the reporting work of the Council during sessions. The English reporters generally finish the transcription of the speeches in the Council House, but at times there are occasions when they too send the transcribed copies from their own offices to which they are attached. In the Central Legislature and in some of the Provincial Councils, there are permanent reporting staff attached to them and it has been found economical to have such a permanent reporting staff. I am, however, examining the question whether the appointment of a permanent reporting staff attached to the Council Department would be economical or not.

MESSAGE FROM THE ASSEMBLY.

The Bengal Cruelty to Animals (Amendment) Bill, 1938.

Mr. PRESIDENT: The Secretary will now read the message received from the other House regarding the passing of the Bengal Cruelty to Animals (Amendment) Bill, 1938.

The SECRETARY (Mr. K. N. Majumdar): The following message has been received from the Secretary, Bengal, Legislative Assembly:—

"In pursuance of section 87 of the Bengal Legislative Assembly Rules and Standing Orders, I am directed to send herewith the Bengal Cruelty to Animals (Amendment) Bill, 1938, with the message that the Assembly at its meeting held on the 2nd March, 1938, have agreed to this Bill without any amendment".

GOVERNMENT BUSINESS.

The Bengal Expiring Laws Bill.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, I beg to lay on the table "The Bengal Expiring Laws Bill" as passed by the Bengal Legislative Assembly on the 3rd March, 1938, and also give notice that I propose, on the 18th March, 1938, to move that the Bill be taken into consideration.

Mr. REZZAQUL HAIDER CHOWDHURY: On a point of order, Sir. If the Bill is taken up for consideration on the 18th March, will it not contravene section 65 of the Council Rules and Standing Orders?

Mr. PRESIDENT: Is the hon'ble member referring to the section which lays down that at least ten days' notice is necessary for amendment?

Mr. REZZAQUL HAIDER CHOWDHURY: Yes, Sir.

The Hon'ble Mr. NALINI RANJAN SARKER: Under proviso to section 38 of the Rules and Standing Orders, you can always relax it.

Mr. PRESIDENT: Under both the sections, notice for ten days is necessary: the proviso merely says "that the President may in his discretion admit at any time any motion at shorter notice than that prescribed by any order, or may admit a motion without notice". Ordinarily the time for notice is ten days.

I think the Hon'ble Minister relies on section 83 of the Rules and Standing Orders, which says "On the day on which the motion is set down in the list of business which shall, unless the President otherwise directs, be not less than seven days from the receipt of the notice, the member giving notice may move that the Bill be taken into consideration." To-day being the 11th the 7th day will be the 18th.

Mr. HAMIDUL HUQ CHOWDHURY: What will be the last date for sending amendments?

Mr. PRESIDENT: That is to be settled.

Rai KESHAB CHANDRA BANERJEE Bahadur: Does not the section mean that seven clear days' notice should be given?

Mr. PRESIDENT: I think there is some inconsistency in these rules. Section 82 empowers a Minister to move it after seven days, but the difficulty, that has been pointed out by Mr. Rezzaqul Haider Chowdhury is that section 86 read with section 65, makes it binding on the Hon'ble Minister to give ten days' notice before it is taken up for consideration; and further under section 53 no motion shall be made until after copies of the Bill have been made available for the use of members and that any member may object to any such motion being made unless copies of the Bill have been so available for seven days before the motion is made. As the copies of these Bills will be available to the members to-day, they must have seven clear days' notice before the motion is made. There is a difficulty. Section 65 lays down that there shall be ten days' notice.

The Hon'ble Khwaja Sir NAZIMUDDIN: Section 82 is expressly meant for cases where a Bill has been before the Assembly and after that has come up to the Council, whereas the other sections are meant for the introduction of a Bill in this House for the first time. This is the difference between the two. I will just explain the difficulty about notice of amendments to this motion. Ten days' notice for amendment is necessary, but I suggest that in view of the fact that the Council

is sitting and all the members are in Calcutta now, ten days' notice may be reduced and five to six days' notice for amendments may be accepted. To-day is the 11th and notice of amendment may be received up to the 17th, and on the 18th they can be taken up here.

Mr. PRESIDENT: The office will have to print those amendments and some time must be given to them.

The Hon'ble Khwaja Sir NAZIMUDDIN: Will the 21st do?

Mr. HAMIDUL HUQ CHOWDHURY: Section 65 says that the written notice of amendments must reach the Secretary at least ten days before the first day on which the Bill is to be taken into consideration. Therefore, the notice has to be received ten days' before the 21st. So, the notice must be given on the 11th and to-day is the 11th. It is not possible on that account.

The Hon'ble Khwaja Sir NAZIMUDDIN: I again maintain that this section refers only to new Bills.

Mr. PRESIDENT: I would like to draw the attention of the Hon'ble Minister to section 86, which relates to Bills that come from the other House. Here it is stated "If the motion that the Bill be taken into consideration is carried, the Bill shall be taken into consideration and the provisions of the Rules and Standing Orders of the Council regarding consideration of amendments to Bill and the subsequent procedure in regard to the passing of Bills shall apply." After this, section 65 will apply and that requires ten days' notice.

The Hon'ble Khwaja Sir NAZIMUDDIN: All these sections are subject to the discretionary power vested in the President to relax them. I suggest that so long as there is no inconvenience either to the members of this House or to the office and we give ample time for amendment, the rules may with your permission be relaxed. We have, as soon as you pointed out that it could not be taken up on the 18th, agreed to 21st. I suggest that five days' notice is necessary in this special case, because the Bills are in a consolidated form, the number of clauses is few, as these are renewal measures, and amendments are limited in number, as distinct from a Bill like the Bengal Tenancy (Amendment) Bill where an absolutely new subject has been introduced. I suggest that in this case the members of this House will not be in any way inconvenienced if five to six days' time is given for submitting amendments and after three days it come up before the House.

Mr. HAMIDUL HUQ CHOWDHURY: What I submit is this. Section 38 and section 65.are both self-contained. Section 38 says

that ten days' notice must be given before the meeting at which a member intends to move his motion. Section 65 also says that ten days' notice must be given. While there is a proviso to section 38, there is no such proviso to section 65. Therefore in a motion which does not come under section 64 or 65, there may be relaxation by the President because there is a proviso to that effect. So long as there is no proviso to section 65 relating to notice of amendments, the President cannot use his discretion.

Mr. PRESIDENT: Is it your contention that the President is helpless under section 65?

Mr. HAMIDUL HUQ CHOWDHURY: Here section 38 does not apply. Under section 38 the days are fixed but the proviso lays down that the rules can be relaxed by the President.

The Hon'ble Khwaja Sir NAZIMUDDIN: Section 38 relates to all motions and the proviso also is there for any motion that is made. Under this proviso the President has got the right to waive the notice at his discretion. Section 65 only contemplates a particular kind of motion. But any motion that is made is governed by the proviso to section 38.

Mr. HAMIDUL HUQ CHOWDHURY: It is a question of explanation. Section 38 (2) reads as follows: "A member who wishes to move a motion (other than a motion for which a specified period is otherwise prescribed) shall give notice of his intention to the Secretary ten days before the meeting at which he intends to move the motion." Therefore section 38 specifically provides for cases which do not come under section 64 or section 65, because section 64 and section 65 specifically provide that at least ten days' notice must be given before the first day on which the Bill is to be taken into consideration. Therefore it does not come under section 38 at all. So long as there is no proviso, the Hon'ble the President, I submit, is not competent to grant the relaxation.

Mr. NAZIRUDDIN AHMAD: I beg to draw your attention to section 65. Section 65 says "Any member who wishes to move an amendment to any Bill'. This makes it clear that section 65 provides for a motion and if that is so, section 38 applies. So the President is absolutely unfettered in his discretion.

Mr. PRESIDENT: I realise that the point made by the Deputy President is on the merit whether the Chair has the right under the proviso to section 38 to use his discretion. Section 38(2) says "A member who wishes to move a motion (other than a motion for which a specified period is otherwise prescribed)" and for that purpose ten

days' notice will be necessary. I take it that in section 38(2) the provision is ordinarily for ten days' notice except in those cases where there are other specified period for giving notice of amendments. The proviso is a general proviso. It runs thus: "Provided that the President may, in his discretion, admit at any time any motion at shorter notice than that prescribed by any order, or may admit a motion without notice". Of course the wording is not happy. This provision should have been in a separate clause by itself and not as a proviso.

It is true that according to the strict rules of interpretation that proviso is governed by the section, but here the other portion, viz., other than a motion for which a specified period is 'otherwise prescribed' is within brackets. According to well-known principles of interpretation where words used in the Statute are liable to different interpretations, the more liberal and the more reasonable one should be applied. I would refer the hon'ble members to Maxwell's 'Interpretation of Statutes'. It is laid down there as follows: "whenever the language of the legislature admits of two constructions and if construed in one way would lead to obvious injustice, the courts act upon the view, that such a result could not have been intended unless the intention had been manifested in express orders". Further on "the same ground applies where the consequence of adopting one of two interpretations would be to lead to absurdity." The difficulty is that, if it is too strictly construed, as asked by the Hon'ble the Deputy President, then the Chair will be precluded to admit a motion on a very important Bill even when there is unanimity in the House about it. But in such cases the Chair will be precluded from accepting any such amendment in the absence of ten days' notice. Further, I may inform the House that it has been held in the past that the Chair has also the inherent right by which it can accept such amendments. In the course of one of his decisions, Mr. Patel said, "I have no doubt in my mind that every occupant of the Chair of a deliberative Assembly possesses and should possess, if he has to function as such, the inherent power of preventing the abuse of forms and procedure of that body." (*Vide*— Legislative Assembly Debates, pages 154-163, 3rd September, 1929.) I think the Chair has the inherent right also to admit a motion in a case like this where the Hon'ble Minister is willing to give five days' time to this House for giving notice of amendments and then another five days' time for printing and circulating those amendments to hon'ble members. I therefore permit the Bill to be taken into consideration on the 21st March and I will allow amendments to be moved at shorter notice than ten days. Hon'ble members desiring to give notice of amendments will please send them to the Council office by 10 a.m. on the 17th March. This will give them five or six days' time after which the amendments will be printed and circulated.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I Sir,——.

Mr. PRESIDENT: Is it on the same point?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir, on a quite different point.

Mr. PRESIDENT: The next motion is that of the Hon'ble Sir Bijoy Prasad Singh Roy's relating to the Bengal Public Demands Recovery (Amendment) Bill, 1938, as passed by the Assembly on the 4th March, 1938.

Mr. NARENDRA CHANDRA DATTA: On a point of information, Sir. I think we should be supplied with copies of the Bengal Electricity Duty Act, Court-fees Amendment Act, Indian Stamp Act and the Bengal Amusements Tax Act, etc. Otherwise we shall not be able to deal with these Bills.

The Hon'ble Mr. NALINI RANJAN SARKER: I am afraid, Sir, I shall not be able to distribute one copy to each member. I can lay only one copy of each of the Act on the Library table.

(Cries of "no, no, that will not help us.")

Mr. PRESIDENT: Hon'ble members are entitled to give notice of amendments, and how that will be possible if each member does not get a copy of the Act the life of which is sought to be extended by the Bill!

The Hon'ble Mr. NALINI RANJAN SARKER: May I submit that if an amendment is proposed to the Criminal Procedure Code, it is not customary to send round to every member of this House a copy of that book. As a member of the Central Legislature, Sir, you know what is the practice. When big Bills are circulated, copies thereof cannot be given to each member.

Mr. NARENDRA CHANDRA DATTA: Sir, it is not an amendment of the Act, but a peculiar Act. It is an extending Act. So it is quite different from the Bills to which the Hon'ble Minister has referred.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, I am continuing the existing Act only and nothing more.

Mr. NARENDRA CHANDRA DATTA: Well, Sir, members are not supposed to be aware of these Acts, and when they were passed.

The Hon'ble Khwaja Sir NAZIMUDDIN: This betrays great ignorance of the law that the hon'ble members do not know these things.

Mr. NAZIRUDDIN AHMAD: Admitting for the sake of argument that the hon'ble member has not got a copy of these Acts, may we not enquire if he is not aware of the existence of the Bengal Electricity Duty Act, 1935, the Court-fees (Bengal Second Amendment) Act, 1935, the Indian Stamp (Bengal Amendment) Act, 1935, or the Bengal Amusement Tax Act, 1935? These Acts are very well known, and what is proposed by the present Bill is that their operation should be extended.

Mr. PRESIDENT: Order, order. The matter is not so easy as Mr. Naziruddin Ahmad thinks, because it is not only the continuation of these Bills that is proposed. Members will be perfectly within their right to propose amendments to the sections of the Acts proposed to be continued, but I hope the Hon'ble Finance Minister will take steps to provide a few copies of each of the Acts in the Library for the use of the members, but at the same time I appreciate the difficulty of supplying a full set of the Acts to each member. I think the Hon'ble Minister should lay on the Library table of this House a few copies—five or six and not one—of each of these Bills, so that hon'ble members may have the advantage of going over and studying them. I think that is the only possible solution.

The Public Demands Recovery (Amendment) Bill, 1938.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to lay on the table a copy of the Bengal Public Demands Recovery (Amendment) Bill, 1938, as passed by the Assembly on the 4th March, 1938.

Mr. RANAJIT PAL CHOUDHURY: On a point of information, Sir. Is it not the general convention that every Bill should be provided with a Statement of Objects and Reasons? But we invariably and consistently find that none of the Bills that we get over here, as passed by the Lower House, ever contain any Statement of Objects and Reasons.

The Bengal Tenancy (Amendment) Bill, 1937.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to present the Report of the Select Committee on the Bengal Tenancy (Amendment) Bill, 1937. At the same time, I beg to submit that I give notice of moving the consideration of this Bill and the passing of this Bill on the 24th March, 1938.

Mr. PRESIDENT: Members desiring to give notice of amendments will please do so by 10 a.m. on the 17th March, 1938.

Mr. HUMAYUN KABIR: Sir, we have not yet got any copy of the Report, so how can we give notice of amendment?

Mr. PRESIDENT: The copies will be distributed just now.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, under the rules at least seven days' notice should be given for tabling amendments, but no copy of the Report is in our hands even now. It will require very close study; so unless otherwise ruled by you, we require seven days' clear notice under the rule.

Mr. PRESIDENT: Notice of amendments may be given from to-day. From to-day to the 17th, there are six days in which to give notice of amendments.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, we want seven days' clear notice.

Khan Bahadur ATAUR RAHMAN: So far as this day is concerned it is gone, and so far as the 17th is concerned, that day may also, practically considered, not to be available, because amendments must reach the department by 10 a.m. on that day.

Accommodation for the Council.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that a Committee of the House be appointed to consider the question of providing separate accommodation for the Bengal Legislative Council or in the alternative, making suitable arrangements for meetings in the existing Bengal Legislative Building. And I propose that the Committee be constituted with the following members:—

Mr. Naresh Nath Mookerjee,

Mr. Shrish Chandra Chakraverti,

Mr. Narendra Chandra Datta,

Mr. Sachindra Narayan Sanyal,

Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,

Mr. Saileswar Singh Roy,

Maharaja Sir Manmatha Nath Ray Chowdhury, of Santosh,

Khan Bahadur Ataur Rahman,

Mr. Kader Baksh,

Khan Bahadur M. Abdul Karim,
Dr. Arabinda Barua,
Khan Sahib Abdul Hamid Chowdhury,
Mr. Nur Ahamed,
Begum Hamida Momin,
Mr. Hamidul Huq Chowdhury,
Mr. Khorshed Alam Chowdhury, and
Mr. J. McFarlane,

and that the quorum for the Committee be seven.

Begum HAMIDA MOMIN: Sir, I beg to move an amendment to the motion that for the words "or in the alternative" the words "and for" be substituted and that at the end of the original motion the words "pending separate accommodation" be added.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, may I just make a request to the Begum Saheba to withdraw her amendment because the day on which it was arranged that a motion should be made, it was suggested that as far as the question of the present arrangement is concerned, the Privilege Committee will look into that. But we want this Committee to be formed for the purpose of coming to a permanent arrangement for the meeting of the Bengal Legislative Council, whether it be in this building or in any other. I think the amendment which has been moved, may be interpreted to mean that this Committee is being formed exclusively for the purpose of having a separate building for the Legislative Council and that the Council is not prepared to consider the question of accommodation in this building or of seeing whether it is possible to have the meetings in the existing building. I think the general idea of the hon'ble members was also to explore the possibility of holding the meetings of the Council in the existing building, and the nature of Begum Saheba's amendment is such that it excludes the possibility of holding the meetings in this building. I would, therefore, request her to withdraw her amendment and leave the motion as it stands.

Mr. HUMAYUN KABIR: May I submit, Sir, that this was precisely the reason for which we requested the Begum Saheba to withdraw her motion on the previous day, because we did not want to bind the House to any decision on this point. Therefore, we pressed very strongly that the matter should not be decided in the House by being put to the vote. But after it had been put to the vote and carried in this House, I think there is some difficulty now in passing another

resolution which indirectly negatives a previous resolution of this House. If the second alternative is carried, it directly negatives the resolution already adopted.

Begum HAMIDA MOMIN: The difficulty explained by Mr. Humayun Kabir does exist, because the House did give their opinion——

Mr. PRESIDENT: No arguments are necessary, in case you do not agree to withdraw your amendment.

Begum HAMIDA MOMIN: In that case I would not withdraw.

Mr. HUMAYUN KABIR: I would like to suggest an amendment that the names of Mr. Moazzemali Chaudhury and Mr. Wilmer be added to the list.

Khan Bahadur ATAUR RAHMAN: I propose to add the name of Rai Radhica Bhusan Roy Bahadur.

The Hon'ble Khwaja Sir NAZIMUDDIN: If further names are not added, Government will not oppose the addition of these three names.

Mr. PRESIDENT: The original motion is, that a Committee of the House be appointed to consider the question of providing separate accommodation for the Bengal Legislative Council or in the alternative making suitable arrangements for meetings in the existing Bengal Legislative Building, consisting of—

Mr. Naresh Nath Mookerjee,
Mr. Shrish Chandra Chakravarti,
Mr. Narendra Chandra Datta,
Mr. Sachindra Narayan Sanyal,
Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,
Mr. Saileswar Singh Roy,
Maharaja Sir Manmatha Nath Ray Chowdhury, of Santosh,
Khan Bahadur Ataur Rahman,
Mr. Kader Baksh,
Khan Bahadur M. Abdul Karim,
Dr. Arabinda Barua,
Khan Sahib Abdul Hamid Chowdhury,
Mr. Nur Ahamed.

Begum Hamida Momin,
Mr. Hamidul Huq Chowdhury,
Mr. Khorshed Alam Chowdhury, and
Mr. J. McFarlane,

and that the quorum for the Committee will be seven.

To this motion an amendment has been moved by Begum Hamida Momin that in line 3 of the original motion for the words " or in the alternative" the words "and for" be substituted and that at the end of the original motion the words "pending separate accommodation" be added.

Now the question before the House is that in line 3 of the original motion for the words "or in the alternative" the words "and for" be substituted and that at the end of the original motion the words "pending separate accommodation" be added.

The House divided—

AYES—8.

Ahmed, Mr. Mesbahuddin.	Karim, Khan Bahadur M. Abdul.
Chowdhury, Mr. Khorshed Alam.	Momin, Begum Hamida.
Chowdhury, Mr. Hamidul Huq.	Rahman, Khan Bahadur Ataur.
Esmail, Khwaja Muhammad.	Rashid, Khan Bahadur Kazi Abdur.

NOES—22.

Ahamed, Mr. Nur.	Maitra, Rai Bahadur Brojendra Mohan.
Baksh, Mr. Kader.	Mookerjee, Mr. Naresh Nath.
Banerjea, Rai Bahadur Keshab Chandra.	Mookerji, Dr. Radha Kumud.
Chakraverti, Mr. Shrish Chandra.	Peddar, Mr. H. P.
Chaudhury, Mr. Moazzemali.	Ray, Mr. Nagendra Narayan.
Das, Mr. Lalit Chandra.	Sanyal, Mr. Sachindra Narayan.
Datta, Mr. Narendra Chandra.	Sen, Rai Sahib Jatindra Mohan.
Goswami, Mr. Kanai Lal.	Singh Roy, Mr. Saileswar.
Kabir, Mr. Humayun.	Sinha, Rai Bahadur Surendra Narayan.
Khan, Maulana Muhammad Akram.	Stokes, Mr. H. G.
Lamb, Mr. T.	Wilmer, Mr. D. H.

The amendment was lost.

Mr. PRESIDENT: The next question before the House is the amendment of Mr. Humayun Kabir that the following names be added:—

Mr. D. H. Wilmer, and
Mr. Moazzemali Chaudhury;

and I would like to put the next amendment also of Khan Bahadu Ataur Rahman that the name of Rai Radhica Bhusan Roy Bahadu be added.

The two amendment motions were agreed to.

Mr. PRESIDENT: The question before the House is, the original resolution as amended which runs as follows:—

That a Committee composed of the following members be appointed to consider the question of providing separate building for the Bengal Legislative Council, or in the alternative, making suitable arrangements for meetings in the existing Bengal Legislative Building, consisting of—

Mr. Naresh Nath Mookerjee,
Mr. Shrish Chandra Chakraverti,
Mr. Narendra Chandra Datta,
Mr. Sachindra Narayan Sanyal,
Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,
Mr. Saileswar Singh Roy,
Maharaja Sir Manmatha Nath Ray Chowdhury, of Santosh,
Khan Bahadur Ataur Rahman,
Mr. Kader Baksh,
Khan Bahadur M. Abdul Karim,
Dr. Arabinda Barua,
Khan Sahib Abdul Hamid Chowdhury,
Mr. Nur Ahamed,
Begum Hamida Momin,
Mr. Hamidul Huq Chowdhury,
Mr. Khorshed Alam Chowdhury,
Mr. J. McFarlane,
Mr. D. H. Wilmer,
Mr. Moazzemali Chaudhury, and
Rai Radhica Bhusan Roy Bahadur,

and that the quorum for the Committee will be seven.

The motion was agreed to.

Bengal Legislative Chambers (President's and Speaker's Salaries) Bill, 1937.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, I beg to move that the question whether this Council insists on the amendments made by it to the Bengal Legislative Chambers (President's and

Speaker's Salaries) Bill, 1937, to which the Bengal Legislative Assembly has not agreed, be taken into consideration.

Mr. PRESIDENT: Motion moved whether this Council insists on the amendments made by it to the Bengal Legislative Chambers (President's and Speaker's Salaries) Bill, 1937, to which the Assembly has not agreed, be taken again into consideration.

The motion was carried.

The Hon'ble Mr. NALINI RANJAN SARKER: I beg to move that this Council insists on the amendments made by it to the Bengal Legislative Chambers (President's and Speaker's Salaries) Bill, 1937, to which the Assembly has not agreed.

Mr. PRESIDENT: Motion moved that this Council insists on the amendments made by it to the Bengal Legislative Chambers (President's and Speaker's Salaries) Bill, 1937, to which the Bengal Legislative Assembly has not agreed.

Khan Sahib ABDUL HAMID CHOWDHURY: Mr. President, Sir, it is with a feeling of great regret and deep disappointment that we have received the message of disagreement on the part of the Assembly to the recommendations proposed by this House regarding the salaries of the Hon'ble the President and the Deputy President of this House. Sir, on a delicate question like this, we were not at all prepared for such a discordant note. We rather expected generous attitude and courteous dealings from the Lower Chamber. I confess Sir, I fail to understand the policy or principle actuating the decision of the other Chamber. While commending our amendments to the acceptance of the Lower Chamber, this House naturally expected this amount of common-sense in the other House that harmonious conduct of business is not feasible without proper respect for mutual feelings. Sir, we have learnt to our utter surprise that a Congress member belonging to the other House went to the length of questioning the propriety of laying this Bill before this House at all. Any comment on the deep knowledge of the hon'ble member regarding the Government of India Act, 1935, seems to be unnecessary but, Sir, if any such wrong impression has contributed in any degree to their ill-advised decision, it is no doubt a very regrettable matter. Sir, the dignity of office is the real criterion for fixing up its emoluments and not the labour involved in the execution of the duties of the office. This House which is generally known as the House of the Elders, consists of members nearly 50 per cent. of which represent the Assembly and about 10 per cent. represent the Government. The rest were elected by constituencies wider in extent, greater in influence, sounder in principle and superior in intellect. Sir, by refusing to agree to the recommendations of such a dignified House, the Lower Chamber

has not only condemned themselves at the bar of public opinion but has also shown disrespect even to their own representatives here. This certainly should not be the relation between the two Houses of Legislature. Sir, the Lower Chamber would do well to shape their policy and principle in the light of the example set recently by the Council of State in staging a walk-out in sympathy with the Indian Assembly for the alleged curtailment of the voting power of the lower House on certain budgetary allotments. This should serve as an example as to what should be the relation between the two Houses of Legislature. While saying this, I do not certainly expect complete agreement of views in all matters of detail, nor do I mean that there should not be any room for honest difference, but on a delicate question like the present one, we did not anticipate any difference of opinion. In a matter like this, we stand on the basis of privilege and right and we do not seek any favour. Sir, without the least disrespect either for the Assembly or for the Hon'ble the Speaker, I beg to submit that in order of precedence, Government has placed the President above the Speaker and so it is in the fitness of things that the President should be allowed *at least* the same emoluments as the Speaker, if not, more, as is the case in the Central Legislature. In a matter like this, provincial legislatures should be guided by the example set by the Central Legislature. Sir, the principle of self-determination is accepted by all democratic countries, and the Bengal Legislative Council should not be denied the right of fixing the salary of its own President. We did not grudge the other House fixing the salary of the Speaker but we do certainly claim that our voice should predominate so far as the salary of the President is concerned. The right of making its own Rules and Standing Orders has now been conferred on the respective Chambers. I do not understand why that right should not include the appointment and fixing of the salaries of the President and the Deputy President of the Chamber as well. We would further like to know on what principle the present Cabinet decided to equalise the salaries of all the Ministers though His Excellency the Governor fixed two scales of pay for the two different sets of Ministers. Is it seriously contended that the work is equally arduous for all the ten Ministers? It is really the principle of prestige that induced the Government of the day to fix the same salary for all the different Ministers. If so, why different principles should be applied in the case of the presiding officers of the two Chambers? The salaries of the Judges of the High Court who hardly devote to their work 180 days in a year, has been fixed at Rs. 4,000 and the salaries of most of the District and Sessions Judges are over Rs. 2,000. The salaries of Secretaries, Additional Secretaries, Joint Secretaries of the Government, Secretary to the Governor, and Registrar, High Court, Chairman, Calcutta Improvement Trust, Members of the Public Service Commission are above Rs. 2,000. We like

to understand on what ground the Ministry of the day oppose the salary of the President being fixed at Rs. 2,000 when it is also found from our experience that the post of the Council President is not *sinecure* but involves strenuous administrative work as well. It is deplorable that the Assembly did not even think it proper to take into consideration the amendment that was suggested by the Council after full deliberation. They were certainly within their rights to refuse the amendments but the summary way in which they refused even to take the matter into consideration, proves that they failed to show due courtesy to the Upper House. We understand that the present Ministry in its wisdom has now fixed the salary of the Secretary of the Council and Assembly at Rs. 1,000—1,500. Perhaps they think that the work of the President is of the same level, but the House respectfully begs to differ from the high opinion that the Ministry entertain about the officers of the Government departments. All the Secretaries except Council and Assembly Secretaries get the same high salary.

It is not merely a question of what should be the amount of salary, but it involves the great principle of the prestige and status of the House. The House must insist on its own amendments whatever the others may decide.

Sir, with these few words, I propose that the Bill be returned to the Lower Chamber under section 88 of the Bengal Legislative Council Rules and Standing Orders with the message that this House insists on its amendments to which the Assembly has disagreed. I hope, Sir, that this time the Assembly will take a more charitable view of the matter and thereby encourage growth of feeling of harmony and cordiality between the two Houses which is essentially necessary to prevent crisis in the administration.

Mr. HUMAYUN KABIR: Mr. President, Sir, it gives me great pleasure to be able to lend for once my whole-hearted support to the motion that has been brought forward by the Hon'ble Finance Minister, and I do so without any reservations or qualifications. Some of the aspects of the question which is under discussion have been brought out very ably by Khan Sahib Abdul Hamid Chowdhury. I would myself approach the question from a slightly different point of view. The question with which we are concerned to-day is not in respect of any particular scale of pay for the President or the Deputy President or any other matter of that type. We are here concerned with the question of the respective rights of the two Houses. I would, therefore, at the outset like to make it quite clear that those of us who are supporting this motion to-day that this House insists on its original amendments, do so with the full consciousness that the original amendments which were passed in this House propose to increase the

salary of the President and the Deputy President. I may also add that we opposed those amendments and voted against them at that time. Nevertheless, we support the motion to-day because so far as we are concerned, we want that this question should be decided and decided in a manner that is in keeping with the statutory rights of the House.

Reference has been made to what happened in another place. One hon'ble member there was pleased to express his prejudice—I will not call it his opinion—that this House should depend upon the practice obtaining in certain other places that an Upper House has no voice in money Bills. I believe that he forgets that in this House we are creatures of the Statute, and our rights are defined in terms of the Government of India Act, 1935, and therefore if the Government of India Act gives us the authority to discuss this question, we are entitled to do so, and the practice prevailing in other places is entirely irrelevant. We, therefore, insist on our amendments on principle, and we hope that if this leads to a joint session of the two Houses, we shall get an opportunity of pressing our view that the salary of the President and the Speaker should be equalized at a lower level than that existing to-day. We shall prove our *bona fides*, and we shall show how anxious we are for economy. We shall suggest that the salaries of the officers of the two Houses should be equalized at a lower level. If members of the other House accept our proposal, they will prove their *bona fides*. If they do not accept our amendment, it will show that they are not anxious for economy, and that it is not due to any *bona fide* intention on their part but merely due to a perverted sense of their own importance that they are led to throw out our amendment without proper consideration.

I would only add one further remark with regard to the salary of the Speaker. There was a strong feeling in the House that the salary of the Speaker should be reduced to that of the President, but out of deference to the wishes of the Lower House, this was not done. I am sure that if at that time we had the slightest inkling that the Lower House would turn down our amendment in this manner, we would certainly have unanimously carried the resolution for reducing the salary of the Speaker to the same level as that of the President. We did not interfere because the question was primarily the concern of the Lower House, and we expected that in return, the salaries of the President and the Deputy President which are primarily the concern of this House would not be interfered with by them. That is another consideration which has been brushed aside in a caviliar fashion by the Lower House, and they have refused to take into consideration the amendments which were moved by us on these grounds.

Sir, I would whole-heartedly support the motion moved by my hon'ble friend, and I hope there will not be a single dissentient voice in this matter, and that we shall unanimously carry this motion.

Sir, if we get a chance of a joint session, we shall prove our *bona fides* and will show that we are not less anxious for economy than anyone else. We shall press our amendment for fixing the salaries of the President and the Speaker on a level which in our opinion is more commensurate with the standard of living in our country.

Dr. RADHA KUMUD MOOKERJI: Sir, I wish to make the position of my party quite clear on this subject. The Congress stands for the principle of equality on the basis of reduction of salary. The Congress has fixed the salary at Rs. 500 for the Presidents and Speakers of Councils and Assemblies where Congress Governments have been established. Sir, we believe in the principle of equality, but I may go a little further. The Government of India Act, 1935, has given a higher precedence to the President of the Council, and according to this precedence this House could claim, if not superiority, at least a position of equality in all those matters which alone give expression to this sense of rank and precedence. We can refer to the example of the President of the Council of State and the President of the Central Assembly. Sometimes, it has been argued, Sir, that the Council does not do as much work as the Assembly, and therefore a kind of commercial consideration has been introduced in the calculation as to what would be the fair salary of the President of the Council, but I think, even so far as the highest officers of the Legislative Chambers are concerned, you cannot really bring to bear upon such grave questions of dignity any commercial consideration. Therefore, I say, firstly, as a member of this House, that I stand for the privileges and dignity of this House. So far as the post of the Secretary is concerned, I understand that the Lower House has taken advantage of the situation in equalising the salary of the Secretary, Legislative Assembly, with the salary of the Secretary, Legislative Council. I think, the Council perhaps began with a Secretary who was drawing a better pay. Now, if this equality has been acknowledged in the case of the Secretary, why should not the principle of equality be extended to the highest authorities concerned. But although I am standing up for the principle of equality as a member of this House, I must also make quite clear the other position, viz., that we want equality which is consistent with a reduction of public expenditure on this office of dignity. I should emphasize that the reduction of salary is a part of the condition which we attach to this claim of equality so that my position really is based on two integral elements—first of all, equality and secondly, this equality as conditional upon a further reduction of salaries of both the Speaker and the President than has been done. With this reservation, therefore, I rise to support the proposal before the House.

Mr. NAZIRUDDIN AHMAD: Sir, after hearing the last speech, I am in doubt as to what is really the position of the Congress with

regard to the motion. The Congress Party has started two propositions which, I believe, have nothing to do with our present purpose. The present question is whether we should support or oppose the motion that the House sticks to its decision; and instead of saying "Yes" or "No", two broad, independent propositions have been started. The first proposition started was that the Congress was for equality and the second was that the pay of all should be reduced to a uniform low standard. These are nice generalities, no doubt, but I submit, Sir, that they do not help us one way or the other so far as the present motion is concerned. If we take the second, we have to do away with the first and *vice versa*. The Congress Party is really in a difficulty and tries to satisfy both sides. So far as we are concerned, we are in no doubt as to what we mean. We want to stick to our decision. This is consistent with the dignity of the Upper House and consistent with the considered opinion of this House.

With these few words, I beg to support the motion.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, Government's position in this matter from the very beginning was that they wanted to be guided by the opinion of the Legislature. My friend, Mr. Humayun Kabir, has said that this is the first occasion on which he has been able to agree with me. But from his speech I find that there is no point of agreement between him and me; he has agreed only up to the limit that this question be again referred to a joint deliberation of both the Houses. So far as the salary is concerned, he wants to reduce it and I am diametrically opposed to this view.

Then, my friend, Khan Sahib has attacked the Government also for initiating two different sets of salary for the Speaker and the President.

So far as I remember, Government first decided to have two sets of salary practically on the analogy of the Central Legislature. Our information is that in the Central Legislature, the President gets Rs. 20,000 and the Speaker gets Rs. 48,000. On that basis, here the Governor laid down Rs. 2,000 and Rs. 1,500 as the pay of the Speaker and the President, respectively, and when the matter was debated in the Assembly, we took up the attitude that in this matter, we would not force our views on the Legislature but be guided by the decision of the Legislature.

Some of the hon'ble members referred to the salary of the Secretary of the Lower House. In that matter also, we were guided by the Speaker and we had to agree to the kind of staff that he wanted. Similarly, here we are to be guided by the decision that you make.

My friend Dr. Radha Kumud Mookerji said that Congress stands for equality and other high principles. Nobody denies that, but I am

sometimes surprised at the ignorance of the Bengal Congress members——

Mr. NARENDRA CHANDRA DATTA: We take strong exception to that.

The Hon'ble Mr. NALINI RANJAN SARKER: You may not admit it, but this is really the case. In Madras our information is that the President gets Rs. 250 per month and the Speaker gets Rs. 500, so also——

Dr. RADHA KUMUD MOOKERJI: In the United Provinces both the President and the Speaker get Rs. 500——

The Hon'ble Mr. NALINI RANJAN SARKER: I do not know why Dr. Radha Kumud Mookerji wants to exclude Madras from the Congress geography——

Dr. RADHA KUMUD MOOKERJI: I am looking nearer home.

The Hon'ble Mr. NALINI RANJAN SARKER: In the Congress there is no near or far: it is all one.

Dr. RADHA KUMUD MOOKERJI: In the case of the Madras President, the fact is that he himself volunteered to accept a lower salary.

The Hon'ble Mr. NALINI RANJAN SARKER: I quite appreciate the difficult position in which Dr. Mookerji has found himself as an exponent of the Congress principle. He is like ourselves. He wants that the President should get more salary but he has to conform to the Congress principle that every one must get lower salary and he is struggling between the two. His speech is rather against than in support of the motion.

Dr. RADHA KUMUD MOOKERJI: On a point of personal explanation——

Mr. PRESIDENT: Order, order. The parliamentary practice is that if an hon'ble member wants to interrupt and if the gentleman who is in possession of the House does not want to give way, his only chance of making personal explanation or any remark is when the speech is finished. He has then to rise and with the permission of the Chair make his explanation.

The Hon'ble Mr. NALINI RANJAN SARKER: So far as the Central Assembly is concerned, I am positive that the salary which

the President gets in the Council of State and the salary which the Speaker gets in the Assembly are different,—one is Rs. 20,000 and the other Rs. 48,000.

Mr. PRESIDENT: May I correct the Hon'ble Finance Minister. The salaries of both the Presidents are Rs. 4,000 but as the President of the Council of State is paid for the period of the session and two or three weeks after, so he is not a whole-time officer, and is permitted to take up other works, while the President of the Assembly is a whole-time officer.

The Hon'ble Mr. NALINI RANJAN SARKER: Our information was that in the Assembly——

Mr. PRESIDENT: I expected that the Hon'ble Finance Minister should have the courtesy of accepting the information when it is coming from the Chair.

The Hon'ble Mr. NALINI RANJAN SARKER: I have accepted it, but with due respect I submit that I have the right of interpreting it in my own way.

Mr. PRESIDENT: Do you think that the Chair has volunteered information about which it is not definite?

The Hon'ble Mr. NALINI RANJAN SARKER: But I think I am entitled to make my own interpretation——

Mr. PRESIDENT: Order, order. It is not an opinion, it is a fact.

The Hon'ble Mr. NALINI RANJAN SARKER: But I think I am entitled to interpret that fact in my own way.

Mr. PRESIDENT: There is no question of interpretation; fact is fact.

The Hon'ble Mr. NALINI RANJAN SARKER: I made the position of the Government quite clear that we are to be guided by the opinion of this House.

Dr. RADHA KUMUD MOOKERJI: The Congress is not at all vacillating in its attitude.

The Hon'ble Mr. NALINI RANJAN SARKER: It is not a personal explanation.

Dr. RADHA KUMUD MOOKERJI: The principle for which I stand and the Congress stands is very clear, although it may be very inconvenient to the Hon'ble Finance Minister.

Mr. PRESIDENT: On a personal explanation you cannot make a second speech. You can only explain if there were any errors.

Dr. RADHA KUMUD MOOKERJI: The Congress position has been misunderstood. We want to reduce the salary and so far as equality is concerned, we are on principle for equality.

Mr. NARESH NATH MOOKERJEE: Sir, I have not clearly understood the position of Government. We have been treated to a nice speech for ten or fifteen minutes by the Hon'ble Finance Minister. But all he has done is to misguide us about facts. Every fact that he put before us has been contradicted by the members of this House and at the end we are left guessing as to the correct state of things. I hope he will make another little speech and tell us what is the correct and clear position.

Mr. PRESIDENT: There was no contradiction. The Chair had certain information which he gave to the Finance Minister. It is for the Finance Minister to accept it or not.

Mr. LALIT CHANDRA DAS: Sir, I rise to oppose the motion of the Hon'ble Finance Minister. The amendment spoken of by the Hon'ble Minister was not explained to the Leader of my Party. As a matter of fact when that amendment was passed, the Leader of my Party was not present. The motion that has been placed before the House is that this House insist on the amendment passed. The amendment which was passed was about a sum of Rs. 2,000 as President's salary to equalise with the pay of the Speaker of the Lower House. The Opposition, the Congress Party, said with respect to this that the pay of both the Hon'ble Speaker as well as the Hon'ble President should be Rs. 750 inclusive of the house allowance as well as motor car allowance. When the amendment was passed, the House divided itself. We voted for Rs. 750 and against the salary of Rs. 2,000 for the Hon'ble President. When the Hon'ble Minister here has actually placed the motion before the House to the effect that the amendment passed by this House be insisted on and sent back to the Lower House, I have no other alternative but to oppose this motion in order to keep and maintain our position. Our position is clear and distinct, namely, that the pay of both the Hon'ble President and the Hon'ble Speaker should be Rs. 750.

There is another point. I submit that the position of the Hon'ble President of the Council is not dependent on the salary that he draws.

It is not at all dependent on that. When His Excellency the Governor comes here for the purpose of opening the two Chambers of the House, the President of the Council is the first gentleman to receive him even if his salary be Rs. 750 or a tenth of that or even though it be Rs. 1,500 as now. The pay of both the Hon'ble Speaker and the Hon'ble President rests with the vote of the House.

Now, with respect to the votes of the Lower House, they are certainly in the majority and they carry everything before them. If, as a matter of fact, the Lower House in consideration of the work of the Hon'ble President thought that the pay of the Hon'ble President should be less, I do not think there was any reflection on his honour and dignity by that vote. My impression is that the position of the Hon'ble President was made perfectly clear by the Statute itself. Under section 84(4) of the Government of India Act, 1935, in any joint sitting of both the Houses the Hon'ble the President will preside, in spite of the fact that the pay of the Hon'ble Speaker might be different and might even be higher. I submit that even though the pay of the I.C.S. officers is sometimes higher than the pay of the Chief Minister and other Hon'ble Ministers, the Hon'ble President and the Hon'ble Speaker, am I to suppose that the position of the I.C.S. officers is in any way higher and better than the position of the Hon'ble Ministers, the Hon'ble President and the Hon'ble Speaker? I for one will not measure the honour and prestige of these high dignitaries by their pay.

May I in this connection bring to the notice of the House one fact? Is the position and dignity of the Ministers, the President and the Speaker of a Congress Province in any way inferior to the position and dignity of the Hon'ble Minister, the President and the Speaker of a non-congress Province? Is it not a fact that by their accepting lower pay and by their good work as well as stern independence, they have acquired a unique position honoured throughout the world? I submit that it is not the pay that matters; it is the dignity and respect of the Hon'ble President and the Hon'ble Speaker that matter. All that we can do is to request the Speaker and the President to set an example as has been done by those of other provinces. To-day the Hon'ble Finance Minister has placed on the table the Bengal Expiring Laws Bill. He seeks there to make permanent the taxes which were temporary. In this connection if an example is set both by the Speaker and the President by accepting a lower pay—a miracle may even happen and the Finance and other Ministers may accept a smaller salary—then that will effect a saving of at least some lakhs of rupees which will go for the development of the nation-building departments. In that case we shall be able to hold our heads high before the people of other provinces.

With these words I oppose this motion.

Mr. D. H. WILMER: Sir, I think the views of the House in this matter are already very clear and have been expressed from every standpoint. I wish therefore to say shortly that this group support the motion of Government that this House should insist upon the amendments which it made in the Bill. This group with other representatives in this House resent very keenly the manner in which their amendments have been received (Hear, hear), and I submit that by our resolution to-day we should remind the Assembly of the provisions of section 60 of the Government of India Act, 1935, namely, that in the Province of Bengal there are two Chambers. It may be that by sheer weight of numbers we shall be defeated in joint session but that is no reason why we should depart from our convictions. Our amendments have been rejected without any consideration whatever. If we have to be defeated, let us go down with our colours flying and let us remember the words of Lord Tennyson: "If to-night our greatness be struck dead, there may be left some record of the things we said".

Rai KESHAB CHANDRA BANERJEE Bahadur: Mr. President, Sir, I shall be very brief. When I heard of the astounding decision of the Legislative Assembly in regard to the Bill relating to salaries of the President and the Deputy President, I was highly disappointed, and I felt that it was an unusual procedure which they had adopted. In the first place, if you look into the constitutional history of the world you will not find any parallel instance of the existence of a feeling of antagonism between one chamber and another. It is a very delicate matter and I think from a common sense point of view, and from the standpoint of decency, the members of the Lower Chamber should not have given an exhibition of their warped mentality. I endorse every word of what Mr. Humayun Kabir has said that we should stand on our own rights. It is not a question of setting an example of self-sacrifice by the President or the Deputy President of the Council by agreeing to accept lower salaries to which reference has been made by one of the speakers. Mr. Lalit Chandra Das has spoken from the point of view of the Congress. But, Sir, as I have already said, we stand on our rights. After a very careful and thorough discussion on a previous occasion, we came to the decision that the salaries of the President and the Deputy President should be equal to those of the Speaker and the Deputy Speaker of the Lower House. If the members of the Lower House had thrown out the amendment on economic grounds there might be some justification for them to do so. But their action was not based on cogent reasoning. I find on calculation that the saving that will be effected by doing away with the increased portion of their salaries will be Rs. 7,000 only—Rs. 6,000 in respect of the salary of the President, and Rs. 1,000 on account of the salary of the Deputy President. Considering the fact that many proposals have been passed in the Lower House involving a larger amount of expenditure

which could have been conveniently curtailed, I do not see any reason why this paltry amount of Rs. 7,000 should be cut down and disrespect shown to the members of the House of Elders. I do not wish to dilate more on the subject. I would request the House to stick to their original decision and support the motion moved by the Hon'ble Finance Minister.

Mr. KADER BAKSH: Sir, I must thank Mr. Lalit Chandra Das for the straightforward speech which he has made, but at the same time I regret very much that he has introduced matters which are absolutely irrelevant. Now, Sir, the question before the House is this: what attitude should we take up in regard to the motion introduced by the Hon'ble Finance Minister? The question is not what the President of this Council is getting or what the Speaker of the Lower House is getting. The question is not what the Speakers and Presidents of the Madras Legislature have decided to take or what the other Congress provinces have decided to take. The question is whether the decision arrived at by us, when we amended the Bill in our last session, was arrived at by us after full consideration of the financial position of the province, and whether we did it rightly or wrongly at that time. The question is whether we should now shape our opinion in the light of the threat given by the Assembly. That is the only question before the House, namely, whether we are convinced that the salary of the President should be equal to the salary of the Speaker, or whether the salary should be lower, because the Assembly has said that they will not brook any interference on the part of the members of the Upper House so far as the finances of the province are concerned. That, Sir, is the only point. Last session when we made this amendment, we made it on the basis that the salary of our President should be equal to the salary of the Speaker. Has anything happened in the meantime that we should change our decision, or should we stick to the principle that we then adopted? That, Sir, is the only question before the House, and I support the motion moved by the Hon'ble Finance Minister.

Maulana MD. AKRAM KHAN addressed the House in Bengali. The following is the English translation of his speech:—

Mr. President, Sir, this resolution has been discussed from the standpoint of morality: legal points have also been raised. I have been cherishing for a long time a desire to see the joint session of the two Houses of the Legislature,—the Upper and the Lower. It will really be a good thing if I ever have the good fortune to see the joint sitting from time to time of these two Houses, be it under favourable or unfavourable circumstances, as there is a provision for it in the Constitution. We have heard the sweet words spoken by

my friend, Mr. Lalit Chandra Das and we thank him. But as it was in the case of Sri Radha so here too, the problem is a problem of choice.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, I have now understood clearly the attitude of the members of the Opposition from the straightforward and very clear speech of my friend Mr. Lalit Chandra Das. Their point is that they stand for equality. But what I have said before is that if they want equality they cannot reduce the pay by amending this Bill and sending it to the Lower House. Because the Speaker's salary is not under consideration by this amendment; it has already been passed, and it is only the President's salary that is under discussion. One hon'ble member enquires, Sir, what is the legal position. Sir, the legal position is that you cannot do anything. You are concerned only with the amendment. And what I want to tell my friend Dr. Radhakumud Mookerjee is that by this Bill, he cannot both drink the milk and smoke the cigar at the same time! Either he must smoke the cigar or he must drink the cup of milk. But Mr. Das has made the position perfectly clear. If you want to reduce the pay then you must certainly oppose the Bill.

Mr. HUMAYUN KABIR: Is this the Hon'ble Minister's own opinion?

The Hon'ble Mr. NALINI RANJAN SARKER: If you can revise the pay, then, certainly I shall be very, very glad. Then again Mr. Das, in his exuberance, at that time said that if the salary is reduced, then lakhs and lakhs of rupees will be saved for beneficent works. But, Sir, even if you take the Congress standard of pay of Rs. 500 per month, the only saving that you can make amounts to not more than Rs. 30,000, which is surely not lakhs and lakhs!

Some members: What about Ministers' pay, travelling allowance and members' salaries?

The Hon'ble Mr. NALINI RANJAN SARKER: Well, Sir, Mr. Das has said nothing about the Ministers' salaries, but only about the President's and the Speaker's salaries. As I was saying, Sir, the House must agree therefore that the saving would be very little.

Mr. Kader Baksh has said that the Assembly has done something which is disrespectful to this House. My opinion is that so far as I have been able to see, the Assembly has never been disrespectful to the Upper House. One or two members might have expressed such an opinion but as far as the decision of the Assembly as a whole is concerned, it is certainly not disrespectful to this House. Some members have raised the question that you have no power, and the Ministers have sufficiently justified it.

Rai KESHAB CHANDRA BANERJEE Bahadur: But the effect is the same.

The Hon'ble Mr. NALINI RANJAN SARKER: No, the effect is not the same. There may be occasions when you will have to throw out a Bill of the Legislative Assembly, but that is not showing any disrespect. It is your duty sometimes as a revising Chamber to throw out a Bill. So I think they have not by their action shown any disrespect to you, at least you should not treat their decision in that way. I beg of you to take the thing in its proper perspective and not to be guided by one individual member's opinion. Otherwise it would be impossible to work the Constitution.

Mr. PRESIDENT: The question before the House is that this Council insists on the amendment made to the Bengal Legislative Chambers (President's and Speaker's Salaries) Bill, 1937, to which the Bengal Legislative Assembly has not agreed.

A division was claimed.

After the Division bell had rung, Mr. President again formally put the motion to the House.

Mr. HUMAYUN KABIR: Before you put the motion to the vote, may I ask whether some doubt has been raised by the Hon'ble Finance Minister that we cannot raise the question at all if it goes to the joint session of both the Houses——

Mr. PRESIDENT: That question cannot be raised in the midst of a division.

The question before the House is that this Council insists on the amendment made to the Bengal Legislative Chambers (President's and Speaker's Salaries) Bill, 1937, to which the Bengal Legislative Assembly has not agreed.

The motion was agreed to.

Adjournment.

The Council then adjourned till 2-15 p.m. on Monday, the 21st March, 1938.

Members absent:

The following members were absent from the meeting held on the 11th March, 1938:—

(1) Barua, Dr. Arabinda.
(2) Cohen, Mr. D. J.
(3) D'Rozario, Mrs. K.
(4) Dutta, Mr. Kamini Kumar.
(5) Hosain, Khan Bahadur Saiyed Muazzamuddin.
(6) Jan, Khan Bahadur Shaikh Muhammad.
(7) Laidlaw, Mr. W. B. G.
(8) Mukherji, Rai Bahadur Satis Chandra.
(9) Ormond, Mr. E. C.
(10) Sarker, Rai Sahib Indu Bhusan.
(11) Shamsuzzoha, Khan Bahadur M.
(12) Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
(13) Huq, Mr. Syed Muhammad Ghaziul.

B. G. Press—1938-39—1703A—900.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Monday, the 21st March, 1938, at 2-15 p.m., being the twenty-first day of the First Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Recruitment made by the Public Service Commission.

236. Mr. HUMAYUN KABIR (on behalf of Khan Bahadur Ataur Rahman): Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(a) whether there are any rules as regards the manner in which appointments and posts are to be allotted as between the various communities in this Province,

(b) the exact function of the Public Service Commission in relation to the recruitment in the services under the Government of Bengal; to what extent are their recommendations made by virtue of their right to be consulted under the Act binding on the Government;

(c) who lays down the educational qualification, age and other requirements required of the candidates for any particular service;

(d) whether it is for the Government to lay down these requirements either after receiving the advice of the Public Service Commission or independent of any such advice;

(e) whether the Government are entitled to examine all the applications for any post received by the Public Service Commission along with the advice tendered by the Public Service Commission, before making their own decision regarding the appointment; and

(f) if so, whether there has been any occasion when the Commission did not send all the papers to the Government in connection with any appointment?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) The principle of reservation of posts for Muhammadans was set forth in a communique, dated the 21st December, 1925, a copy of which has been placed in the Library. As regards the reservation of appointments for minority communities and backward classes, copies of the Government orders on the subject have been placed in the Library.

(*b*) For the functions of the Public Service Commission I would refer the hon'ble member to section 200 of the Government of India Act, 1935, and Part XIII of the Bengal Public Service Commission Regulations, a copy of which has been placed in the Library. Recommendations of the Public Service Commission are not binding on Government.

(*c*) Government.

(*d*) The hon'ble member is referred to the last sentence of my answer to part (*b*) of this question.

(*e*) There is no law or rule on the subject.

(*f*) Does not arise.

Persons under Detention.

237. Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) the total number of detenus still under detention;

(*b*) whether the detenus under detention are being or will be gradually released; and

(*c*) if so, when the release of all detenus will be completed?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) The hon'ble member is referred to the answers given to questions Nos. 68, 92 and 138 put by Mr. Moazzemali Chaudhury. I may add that there are now no detenus in detention in camps and the number in jails on the 9th March was twenty-six, of whom fourteen are about to be removed.

(*b*) and (*c*) Rapid progress is being made with their release but I am unable to say definitely when the process will be finally completed.

Detenu Babu Nagendra Sekhar Chakrabarty.

238. Mr. NARENDRA CHANDRA DATTA (on behalf of Mr. Kamini Kumar Dutta): (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether detenu Babu Nagendra Sekhar Chakrabarty was refused interview while he was in the Calcutta Medical College Hospital?

(*b*) (*i*) Who have been allowed to interview him at the hospital?

(*ii*) How many times did they interview him in the last two years?

(*iii*) For how long has Nagen Babu been in hospital and how many interviews had he during this period?

The Hon'ble Khwaja Sir NAZIMUDDIN: The individual in question was a detenu but has lately been unconditionally released.

239. Mr. NARENDRA CHANDRA DATTA (on behalf of Mr. Kamini Kumar Dutta): Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) how many dependants detenu Babu Nagendra Sekhar Chakrabarty has got at home;

(*b*) whether his daughters are of school-going age;

(*c*) what allowance was granted to his family;

(*d*) whether any consideration was made for the educational expenses of his daughters while fixing the amount of his allowance;

(*e*) if not, whether Government propose to consider it now; and

(*f*) whether they propose to increase his family allowance now?

The Hon'ble Khwaja Sir NAZIMUDDIN: The individual in question was a detenu but has lately been unconditionally released.

240. Mr. NARENDRA CHANDRA DATTA (on behalf of Mr. Kamini Kumar Dutta): (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state what are the present ailments of detenu Babu Nagendra Sekhar Chakrabarty?

(*b*) (*i*) Has he been bed-ridden?

(*ii*) Has he been spitting blood?

(*iii*) Is there any internal hæmorrhage of the intestines?

(*c*) Is it a fact that the medical and surgical experts of the Calcutta Medical College are of opinion—

(*i*) that the risk of operating on him again in his present state of health should not have been taken; and

(*ii*) that facilities of treatment in a better climate should be offered to him as soon as possible?

(*d*) If the answer to (*c*) (*ii*) be in the negative—

(*i*) what are the recommendations of the medical specialists regarding the treatment of Nagen Babu; and

(*ii*) what arrangements do the Government propose to make for giving effect to those recommendations of the specialists?

(*e*) Do the Government propose to release him immediately with an allowance suitable to continue his treatment?

(*f*) Do the Government propose to keep him in some healthy place on a suitable allowance for the same purpose? If not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN: The individual in question was a detenu but has lately been unconditionally released.

241. Mr. NARENDRA CHANDRA DATTA (on behalf of Mr. Kamini Kumar Dutta): Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) when detenu Babu Nagendra Sekhar Chakrabarty was placed in detention under the Bengal ordinance;

(*b*) when it was first discovered that Babu Nagendra Sekhar Chakrabarty was suffering from serious intestinal trouble;

(*c*) what medical and surgical measures were taken for the treatment of Nagen Babu then;

(*d*) whether Babu Nagendra Sekhar Chakrabarty has been suffering from serious adhesion of the intestine ever since the operation he had undergone six or seven years ago;

(*e*) whether he was admitted to the Calcutta Medical College Hospital for treatment of the complaints during these years? If not, why not;

(*f*) whether it is a fact that his condition became so very serious on more than one occasion that the Commandants of the Camps at Hijli and Deoli refused to be responsible for his life there in the camp;

(*g*) whether it is a fact that three years ago at the Presidency Jail, Alipore, when in the jail hospital for treatment—

(*i*) he was given no medical attendant for nursing,

(*ii*) on his protest against this he was awarded punishment, and

(*iii*) finally he was convicted and sentenced to six months' rigorous imprisonment inside the jail for his refusal to take food as a protest against the above dealings of the authorities; and

(*h*) whether it is a fact that his health has been further ruined by this imprisonment?

The Hon'ble Khwaja Sir NAZIMUDDIN: The individual in question was a detenu but has lately been unconditionally released.

Highway robbery case at Dacca.

242. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) who were the persons accused of the highway robbery case (in July, 1937) at Dacca;

(*b*) whether the trying Magistrate, a Muhammadan gentleman, found, as a matter of fact, that the highway robbery at Dacca was not committed by any terrorist; and

(*c*) if the answer to (*b*) be in the affirmative, whether the Government admit now that it was not an act of any terrorist?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) (1) Sibapriya Bose, (2) Sambhunath Sutradhar, (3) Gour Chandra Saha Das and (4) Jyotish Chandra Sarkar *alias* Buira.

(*b*) and (*c*) No.

Mr. LALIT CHANDRA DAS: Arising out of (*b*), may I ask the name of the gentleman who tried the case?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice, Sir.

Mr. HUMAYUN KABIR: Arising out of answer to (*b*), will the Hon'ble Minister be pleased to state what was the finding of the Magistrate?

The Hon'ble Khwaja Sir NAZIMUDDIN: While convicting the accused, the Court observed that the evidence was not sufficiently well pronounced for a more assertive finding that it was the work of the terrorist, though the *modus operandi* and the participation of the two conditionally released detenus in the crime justify the conclusion that the offence was committed by persons connected with the terrorist party.

Removal of ban from 218 associations in Bengal.

243. Mr. NARENDRA CHANDRA DATTA (on behalf of Mr. Kamini Kumar Dutta): (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if the Government intend to remove the ban from the two hundred and eighteen associations in Bengal under ban, a list of which was supplied on the 21st August, 1937, according to a promise made in answer to my question on the 16th August, 1937?

(*b*) If the answer to (*a*) be in the affirmative, will the Hon'ble Minister be pleased to state when and from which of these associations the ban will be removed?

The Hon'ble Khwaja Sir NAZIMUDDIN: The attention of the hon'ble member is invited to the press note issued by Government on the 3rd March, 1938, a copy of which is placed on the table.

Press note referred to in the reply to question No. 243.

CALCUTTA, THE 3RD MARCH, 1938.

The Provincial Government have had under review the list of associations declared illegal under the provisions of section 16 of the Indian Criminal Law Amendment Act, 1908, and have directed the Minister be pleased to state when and from which of these associations cancellation of the ban in one hundred and seventy-six cases. These include all the associations numbering one hundred and ten in the district of Midnapore. The cases of the remaining associations, forty-two in number, are under examination.

Suicide committed by Babu Amulya Kumar Choudhuri of Chittagong.

244. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether it is a fact that Babu Amulya Kumar Choudhuri, son of Babu Purna Chandra Choudhuri, an inhabitant of village Shakpura in Boalkhali thana of the Chittagong district committed suicide by hanging himself at night;

(*b*) whether it is a fact that he left behind a letter giving reasons for his suicide;

(*c*) if so, what were the circumstances stated therein which led him to end his life;

(*d*) what was his age at the time of his death and on what date and time did he commit suicide;

(*e*) on what date was the order of his release issued from—

(*i*) Calcutta,

(*ii*) Chittagong, and

(*iii*) Boalkhali:

(*f*) whether the order of release was served on him before his death; if not, when was the order of release taken to his house for service;

(*g*) how many detenus and internees ended their lives by suicide between 1932 and 1937; and

(*h*) whether the Government will consider the desirability of releasing all the rest of the detenus and internees unconditionally and without any further delay?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Yes, at 4 p.m. approximately on the 26th November, 1937.

(*b*) No.

(*c*) Does not arise.

(*d*) His age was twenty-five. The hon'ble member is also referred to the answer to part (*a*) of his question.

(*e*) (*i*) The 23rd November, 1937.

(*ii*) It was received in Chittagong on the 25th November, 1937, and despatched to the thana on the 27th November, 1937.

(*iii*) It was not issued from the thana as by that time the death had been reported.

(*f*) The hon'ble member is referred to the answer given to part (*e*) of this question.

(*g*) Nine.

(*h*) The policy of Government is stated in the communique issued on the 18th November, 1937, in accordance with which the release of the late Babu Amulya Kumar Choudhuri was ordered.

Release of Detenus.

245. Rai BROJENDRA MOHAN MAITRA Bahadur: Will the Hon'ble Minister in charge of the Home Department be pleased to lay on the table a statement showing—

(*a*) the number of detenus sent to village domicile;

(*b*) the number of detenus who have completed by the 31st December, 1937, three months or more of their home internment;

(*c*) how many of the above have been released;

(*d*) how many of them are still in home internment;

(*e*) what are the reasons for not releasing them according to the Home Minister's plan;

(*f*) in how many cases the police report is against them;

(*g*) whether the detenus are informed of the substance of the police report against them (in order that in future they can conduct themselves unobjectionably);

(*h*) how many of the detenus have completed their three to six months' internment in the village domicile;

(*i*) whether the detenus were informed of the nature of the police report against them; and

(*j*) whether they were given opportunities to submit their explanations?

The Hon'ble Khwaja Sir NAZIMUDDIN: The hon'ble member is referred to the answers given to questions 138 and 92 asked by Mr. Moazzemali Chaudhury.

Chief Minister's speech at the Moslem League Session.

246. Mr. NARENDRA CHANDRA DATTA: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether his attention has been drawn to the newspaper reports of the speech delivered by the Hon'ble Chief Minister of Bengal, at the last session of the Moslem League at Lucknow, in which he threatened the Hindus of Bengal with reprisals, if the Congress Ministries would appear to him to oppress Mussalmans in their provinces?

(*b*) If so, does the speech of the Hon'ble Chief Minister represent the policy of the Government of Bengal?

(*c*) If not, does the Hon'ble Minister contemplate the desirability of issuing a communique expressing Government's view regarding the particular speech delivered at Lucknow?

(*d*) What steps does the Hon'ble Minister propose to take so that responsible Ministers may not say anything in public to incite communal passion?

The Hon'ble Khwaja Sir NAZIMUDDIN: The hon'ble member is referred to the statement made by the Hon'ble Chief Minister to the Press on the 26th October, 1937, a copy of which is laid on the table.

Statement referred to in the answer to question No. 246.

Statesman (Calcutta) of 26th October, 1937, publishes the following:—

FALSE REPORTS.

Mr. A. K. Fazlul Huq, Premier of Bengal, has issued the following statement to the Press.

"My Lucknow speech has evoked wild criticisms in the Press and I have been called upon to state what I actually said. I am not going to obey all these mandates, but I will say a few words as to what I

did not say. False reports have been circulated—that I referred to the Hindus as '*kafirs* and as men without a future'. And that when I did talk of *kafirs* and men without a future I had as my objective the great Hindu community of India.

"All these are mischievous perversions of what I actually said. I believe I have got sufficient religious instincts in me to be able to appreciate the religious sentiments and feelings of others, and however harsh my expressions as a political speaker might sometimes be, I always take care not to say anything which may wantonly wound the religious susceptibilities of others. In all my life I have never referred to the Hindus as '*kafirs*', or 'men without a future'. I issue this short statement, because although I do not object to legitimate criticism, I feel that I must repel a mis-statement of facts.

NO WANTON MOLESTATION.

"My speech was in Urdu, and the word I used in the matter of retaliation was *satana*. I am sorry it is difficult properly to transliterate what I actually said. This word means anything from mere teasing to active persecution. Even in the matter of retaliation I never said that my objective would be the Hindus as such. And, then, I made it clear that retaliation might take various forms, and it is not necessary that I should be actually persecuting the Hindu community of Bengal.

"If Mr. Govinda Ballav Pant can assume the guardianship of the interests of the Moslems of the United Provinces, I can assure him that I am prepared to accept the guardianship of the Hindu minority in Bengal, and I can also assure him and all whom it may concern that so long as we are in power there will be no wanton molestation of the members of the Hindu or any other non-Moslem community."

Mr. NARENDRA CHANDRA DATTA: Will the Hon'ble Minister be pleased to state whether there is any answer to question No. (*b*) and (*c*)?

The Hon'ble Khwaja Sir NAZIMUDDIN: I think so, Sir.

Mr. NARENDRA CHANDRA DATTA: The statement of the Hon'ble Prime Minister Maulvi A. K. Fazlul Huq in the Press does not say what the viewpoint of the Government of Bengal is with regard to his speech.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, the explanation of the Chief Minister naturally represents the views of the Government.

Detenu Babu Brojendra Mohan Das.

247. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) (*i*) whether Babu Brojendra Mohan Das of Chittagong, now a detenu in the Berhampore Detention Camp, has been suffering from an excruciating pain in his abdomen, for last two years;

(*ii*) whether the pain starts at 8 o'clock in the morning and goes on increasing till 12 noon; and

(*iii*) whether it abates gradually following a vomiting at 1 o'clock;

(*b*) whether it is a fact that he is now confined to bed and cannot attend to nature's call unless helped by his friends; and that the said detenu is now living on milk, barley and green cocoanut diet; and

(*c*) when he was taken a prisoner?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) He is under specialist treatment in Calcutta for amœbic dysentery and Ankylostomaisis which causes occasional discomfort.

(*b*) No.

(*c*) February, 1933.

248. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) what is the disease from which Babu Brojendra Mohan Das, a detenu in the Berhampore Detention Camp, is suffering; and

(*b*) whether he has been X'rayed; if not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Amœbic dysentery and Ankylostomaisis.

(*b*) He has been sent to Calcutta for the purpose.

249. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to lay on the table a history sheet of the disease from which Babu Brojendra Mohan Das, a detenu in the Berhampore Detention Camp, is suffering or suffered in the past?

(*b*) Does the Hon'ble Minister propose to release him immediately? If not, will he be pleased to state the reasons for his continued detention?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) He has suffered at times from the symptoms of Colitis, Dyspepsia and Urticaria and his condition has been diagnosed as a case of Amœbic dysentery with Ankylostomaisis.

(*b*) The question will be considered when his examination by specialists is completed and Government have been advised as to the treatment necessary in the case.

Mr. LALIT CHANDRA DAS: Arising out of (*b*), has the examination by the specialist been completed by this time?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice, Sir.

Mr. LALIT CHANDRA DAS: May I ask the Hon'ble Minister where he is at present, is he in the hospital or in jail?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice, Sir.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state if he proposes to investigate into the close connection which seems to obtain between detention and Ankylostomaisis?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not agree that there is close connection between them.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state whether he is prepared to admit that in view of the answers to three or four supplementary questions, this case deserves special enquiry?

Mr. PRESIDENT: That is a matter for argument.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state how long he has been suffering?

The Hon'ble Khwaja Sir NAZIMUDDIN: I want notice, Sir.

Population of the village Sankerpore in the police-station Narail in Jessore.

250. Mr. MOAZZEMALI CHAUDHURY: (*a*) Is the Hon'ble Minister in charge of the Public Health and Local Self-Government Department aware that according to the census report, the population of village Sankerpore, police-station Narail in the district of Jessore, has come down from 1,393 in the year 1901 to 542 in the year 1931 due to increase in the death rate?

(*b*) Is it a fact that the principal cause of death is malaria?

(*c*) Is it a fact that Government have not taken any steps to sink a tube-well in the village, to clear jungles in the village and to arrange for medical aid for the villagers in spite of repeated memorials to the Government from the villagers?

MINISTER in charge of the PUBLIC HEALTH and LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Syed Nausher Ali): (*a*) and (*b*) From the record available, it appears that the population of the village in 1921 was 519 and that it came down to 496 in 1931. Census figures for the years 1901 and 1911 in respect of this village are not available.

A statement is laid on the table showing births and deaths from malaria and other causes in the village during the last seven years. It will appear that during the years 1934, 1935 and 1936, there was no death from malaria in the village and that during the period from 1935 to 1937, the number of births exceeded the number of deaths.

(*c*) The local Union Board passed a resolution on the 26th December, 1937, for sinking a tube-well in the village on condition that the villagers paid Rs. 50 as part contribution. The tube-well could not be sunk as the villagers refused to pay any contribution. Anti-malaria works were carried out in the village for four successive years with funds contributed by Government, District Board and the Union Board. It is reported that the villagers were requested and were also served with notices by the Union Board for clearance of jungles within the village but they are unwilling to do anything themselves.

There is no dispensary within three miles from the village.

Statement referred to in the reply to question No. 250, showing the births, deaths deaths from malaria, etc., of the Sankarpur village in police-station Narai during the last seven years from 1931 to 1937.

Year.	Births.	Deaths.	Deaths from malaria.	Deaths from other fevers.	Deaths from all other causes.
1931 ..	12	8	3	2	3
1932 ..	10	15	1	1	13
1933 ..	10	19	13	1	5
1934 ..	3	4	..	3	1
1935 ..	12	7	..	3	4
1936 ..	13	9	..	6	3
1937 ..	11	8	3	..	5
Total for 7 years	71	70	20	16	34

Free compulsory primary education in the excluded area.

251. Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

(*a*) whether the Government have taken any steps to introduce free compulsory primary education in any excluded area with the least possible delay, as an experimental measure;

(*b*) if so, where; and

(*c*) what amount the Government have allotted to work out the scheme?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) No provision has been made for free and compulsory primary education in the Chittagong Hill Tracts which is the only excluded area.

(*b*) and (*c*) Do not arise.

Revenue-paying and revenue-free estates.

252. Mr. BANKIM CHANDRA DATTA (on behalf of Rai Surendra Narayan Sinha Bahadur): (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state the total number of revenue-paying estates and revenue-free estates at present existing in Bengal, as well as the total number of rent-paying and rent-free tenures under them?

(*b*) Will the Hon'ble Minister be pleased to state what percentage of the total collections in *khas mahal* and Court of Wards estates, is spent as collection charges?

(*c*) Will he also be pleased to state how many transfers of land were registered in the years 1929-30 to 1936-37 and in the year 1937-38 up to date and in how many of them the right of pre-emption was exercised by the landlords?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) Revenue-paying estates—109,722 and revenue-free estates—31,199.

Separate statistics of rent-free and rent-paying tenures are not available.

(*b*) In *khas mahals* the limit of cost of management is fixed at 8 per cent. on the current demand of rent and cess of Part III estates *plus* the average of the previous three years' actual miscellaneous collections from these estates.

In 1936-37 the cost of management of Court of Wards estates was 10·2 per cent. of the actual collections.

(*c*) A statement is laid on the table.

Statement referred to in the reply to (c) *of question No. 252.*

	Number of transfers of land.	Number of cases in which right of pre-emption exercised.
1929-30 ..	287,238	1,142
1930-31 ..	314,494	1,468
1931-32 ..	311,595	1,144
1932-33 ..	326,603	1,052
1933-34 ..	331,560	987
1934-35 ..	393,727	1,168
1935-36 ..	439,199	1,776
1936-37 ..	426,027	2,257

Figures for 1937-38 are not available.

Extra copyists in the office of the Registrar of Assurances, Calcutta.

253. Mr. NARESH NATH MOOKERJEE: Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) whether there are any extra copyists in the office of the Registrar of Assurances, Calcutta;

(*b*) whether they are considered and classed as Government servants;

(*c*) if so, whether the said extra copyists enjoy any of the privileges of Government service, e.g., gratuity, provident fund, pension, etc.;

(*d*) whether the Hon'ble Minister will be pleased to lay on the table a statement showing the date of appointment of each extra copyist of the aforesaid office;

(*e*) whether it is a fact that most of the extra copyists in the office of the Registrar of Assurances, Calcutta, have to their credit tenures of service extending from five to fifteen years or more;

(*f*) (*i*) if so, whether the Hon'ble Minister will be pleased to state the reason why they are still considered as "extra" and not included in the permanent staff;

(*ii*) the reason why this distinction is maintained; and

(*iii*) whether he proposes to remove the distinction and include them in the permanent staff granting all the privileges of permanent Government service to them?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Education Department): (*a*) Yes.

(*b*) No, except during the period when they are temporarily employed.

(*c*) Does not arise.

(*d*) A statement is laid on the Library table.

(*e*) Yes, in the case of some of them.

(*f*) (*i*) They are regarded as extra *muharrirs* because they have no permanent appointment.

(*ii*) Because their service is temporary and only utilised when the permanent staff cannot cope with the work.

(*iii*) No such proposal is under consideration.

Extra copyists attached to the Registration Department.

254. Mr. NARESH NATH MOOKERJEE: Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is a fact—

(*a*) that the extra copyists attached to the Registration Department are remunerated on the piece-rate system;

(*b*) that they have to copy efficiently, legibly and with reasonable despatch from the originals, which are often illegible and require much time for deciphering;

(*c*) that they have to spend a great deal of time in comparing copies for want of comparing clerks as in civil or criminal courts;

(*d*) that they have been found efficient and prompt in discharging their responsible duties in spite of these disadvantages;

(*e*) that the remuneration paid to them on the piece-rate system is uncertain and inadequate;

(*f*) that these extra copyists are required to attend and leave office punctually and regularly like all other paid officers;

(*g*) that ministerial officers and even peons get the pay for vacation period, leave period and sickness period;

(*h*) that these extra copyists get no vacation allowance, leave allowance or sickness allowance;

(*i*) that the necessity of including these extra copyists in a regular establishment has been felt by the Government themselves; and

(*j*) that no gratuity, pension, provident fund or allowance is paid to these extra copyists in case of disablement, old age, sickness or death?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Education Department): (*a*), (*b*), (*g*), (*h*) and (*j*) Yes.

(*c*) Some time is spent in comparing.

(*d*) Some of them, but not all, have been found efficient.

(*e*) Government do not consider the rate of payment to be inadequate. But by the very nature of the work of this department, their earning is subject to fluctuation.

(*f*) No, except when they have work to do.

(*i*) Government have made rules for recruitment of permanent *muharrirs* from among competent extra *muharrirs*.

Extra copyists in the Office of the Registrar of Assurances, Calcutta.

255. Mr. NARESH NATH MOOKERJEE: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is a fact that a letter, dated the 17th November, 1937, was issued by the Inspector-General of Registration, Bengal, in reply to the Council question No. 145, dated the 16th August, 1937, put by Mr. K. C. Roy Chowdhury in the Bengal Legislative Council regarding the average monthly income of the extra copyists in the office of the Registrar of Assurances, Calcutta?

(*b*) Was it decided by the Government that in order to increase the earnings of extra copyists (thirty-four in number) to a reasonable amount, the enlistment of new extra copyists should be restricted?

(*c*) Was it decided that in future no new copyists should be enlisted until the men now on the list are fully occupied?

(*d*) If so, will the Hon'ble Minister kindly state the reasons why four men from outside have been newly appointed as extra copyists in the said office?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Education Department): (*a*) to (*c*) Yes.

(*d*) No new appointments were made since the order referred to in part (*a*) of the question.

Deputations from the Registration Office staff at Bogra and Noakhali.

256. Mr. NARESH NATH MOOKERJEE: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether there were deputations to him from the Registration offices of (1) Calcutta, (2) Bogra and (3) Noakhali, embodying the grievances of the Registration Department and praying for their redress?

(*b*) If the answer to (*a*) be in the affirmative, will the Hon'ble Minister be pleased to state what action has since been taken by the Government to remove the said grievances?

(*c*) Will the Hon'ble Minister be pleased to state whether it is in the contemplation of Government to appoint the extra copyists of the Registration Department on a salary system?

(*d*) If so, when is it proposed to introduce the system?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Education Department): (*a*) Yes, I received deputations from Registration office staff at Bogra and Noakhali.

(*b*) The grievances referred to by the deputationists are under the consideration of Government.

(*c*) No.

(*d*) Does not arise.

Communication addressed by the Bengal National Chamber of Commerce to the Director of Industries.

257. Rai Sahib INDU BHUSHAN SARKER: (*a*) Has the attention of the Hon'ble Minister in charge of the Agriculture and Industries Department been drawn to the communication addressed by the Bengal National Chamber of Commerce to the Director of Industries on the 7th February, 1938, regarding the Bengal State Aid to Industries Act?

(*b*) If so, is it a fact that the said Chamber of Commerce stated in the communication that the provisions of the Act are such as to discourage the people from availing themselves of the benefits of the Act?

(*c*) Do Government accept the statements of the Bengal National Chamber of Commerce made in the letter referred to in clause (*a*) and, if so, do they propose to amend the Act accordingly?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) No.

(*b*) and (*c*) Do not arise.

Damage of aman paddy in certain parts of Murshidabad.

258. Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state—

(*a*) whether he is aware of this year's damage to *aman* paddy crop in certain parts of Murshidabad district, namely, in Khargram thana, and, if not, whether he proposes to make an enquiry;

(*b*) if the answer to (*a*) be in the affirmative, whether he will be pleased to state the extent to which the crop was affected;

(*c*) whether the local Agricultural Officer of the district has got any information; if so, what steps he did take to help the cultivators; whether he visited any village so affected and, if so, what are the villages visited by him;

(*d*) whether the Government have taken any steps to have the affected crop examined for finding out the cause of the disease and suggesting remedies for the prevention of such diseases in future; and

(*e*) if so, whether the Hon'ble Minister will be pleased to state whether the department has been able to find out the causes?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: (*a*) Transplanted *aman* paddy was attacked by insects in patches in western parts of Kandi and Jangipur subdivisions due to heavy rains in October last.

(*b*) The attack was not serious and was of short duration. About two annas damage was caused in some villages of Khargram thana.

(*c*) to (*e*) The affected parts were visited by departmental officers and no remedial measures were found necessary as the insects had already disappeared.

Researches by Dr. S. S. Nehru.

259. Rai MANMATHA NATH BOSE Bahadur (on behalf of Raja Bhupendra Narayan Sinha Bahadur, of Nashipur): (*a*) Has the attention of the Hon'ble Minister in charge of the Agriculture and Industries Department been drawn to the results of the researches carried on by Dr. S. S. Nehru, B.A., B.Sc. (Alld.); M.A. (Cantab.); PH.D. (Heidelberg); L.E.D. (Paris) LL.D. (Brussels); I.C.S., late President of the Branch of Agriculture in the Indian Science Congress, Member, Advisory Board of Imperial Council of Agricultural

Research, and Comite Derectorial do P Archive Internationale de Radiobilegie Generale, District Magistrate of Mainpuri, with regard to the development of agricultural resources by the special method of electroculture?

(*b*) If so, will the Hon'ble Minister be pleased to lay on the table of the Library the results of those researches if printed and published?

(*c*) If not, does the Hon'ble Minister propose to enquire about the results of the researches by the said Dr. Nehru and to inform the House about the results of such enquiry?

(*d*) What steps does the Hon'ble Minister propose to take in the matter of applying such results for the improvement of agriculture in this Province?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: (*a*) Yes.

(*b*) The results of the researches have been printed and published in three bulletins issued by the Government of the United Provinces.

I regret that I have no spare copies to lay on the Library table, but I would be glad to furnish the hon'ble member with particulars so that he may purchase these publications for himself, if he so desires.

(*c*) Does not arise.

(*d*) The results were applied at Dacca Farm to mango trees with indifferent results. It is proposed to carry out further experiments at the Horticultural Research Station at Krishnagar.

Transfer of the departments of Salt, Sugar and Matches from the Provincial to the Central Government.

260. Mr. REZZAQUL HAIDER CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Forests and Excise Department be pleased to state whether the opinion of the Government of Bengal was taken in the matter of the transfer of the departments of Salt, Sugar and Matches from the Provincial Government to the Central Government?

(*b*) Will he be pleased further to state how the officers of the local Government who have been working in these departments will be provided in future?

MINISTER in charge of the FORESTS and EXCISE DEPARTMENT (the Hon'ble Mr. Prasanna Deb Raikut): (*a*) Yes.

(*b*) This would depend on final decision.

Salt industry in Bengal.

261. Mr. REZZAQUL HAIDER CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Forests and Excise Department be pleased to state how much has been spent by the Government of India up to date from their own share of the Additional Import Duty Fund for the development of the salt industry in Bengal, as was promised by Sir George Schuster in 1931 in connection with the extension of the Salt Additional Import Duty Act, and on what items they have been so spent?

(*b*) Does the present Government of Bengal hold the same view as the old Government, so far as the question of the extension of Salt Additional Import Duty is concerned, or has there been any change in the angle of vision and, if so, in what respects?

The Hon'ble Mr. PRASANNA DEB RAIKUT: (*a*) Out of their one-eighth share of the proceeds from the additional import duty, the Government of India have spent money on the following items concerning this province:—

(1) local investigation by Mr. C. H. Pitt into the possibilities of salt manufacture on the seaboard of Bengal;

(2) scheme for the encouragement of production of salt in Bengal as a cottage industry by the establishment of bonded warehouses; and

(3) local investigation by two expert officers, one deputed from Burma and the other from Sind, to find out the possibilities of manufacture of salt in Bengal on either of the methods followed in Burma or on the Coromandel coast.

The full details of expenditure incurred by the Central Government on the above items are not known to this Government.

Government of India have also sanctioned the grant of a subsidy to the Chittagong Trading Union on a sliding scale for three years, and have agreed to bear as well the cost of the supervising staff that will be required at the factory of the above firm when they start manufacture. No expenditure has as yet been incurred by the Central Government under this scheme, as the firm have not hitherto been able to start manufacture in order to qualify for the subsidy.

(*b*) The views of this Government on the subject are substantially the same as those of the old, as regards the additional import duty on salt.

Appointments in the Bengal Government Press.

262. Mr. SHRISH CHANDRA CHAKRAVERTI: Will the Hon'ble Minister in charge of the Finance Department be pleased to state—

(*a*) the number of apprentices at present employed in the Bengal Government Press with their date of appointment and the initial pay;

(*b*) whether any test examination was recently held to ascertain the fitness of the apprentices;

(*c*) if so, whether it is a fact that the result of the said examination showed that most of the apprentices had failed miserably;

(*d*) when the rest of the apprentices, who have not yet been examined, will be so examined; and

(*e*) whether there are among the apprentices, who have not yet been examined, any relatives of the supervising staff?

MINISTER in charge of the FINANCE DEPARTMENT (the Hon'ble Mr. Nalini Ranjan Sarker): (*a*) A statement is laid in the Library.

(*b*) The last test for apprentices was a test in Reading section work held in August last.

(*c*) No. All but seven out of the twenty-five who sat for the test, obtained 50 per cent. or more of the full marks.

(*d*) Reading section tests are held annually, about August. Apprentices in the composing section are tested on completion of two years' apprenticeship.

(*e*) Yes, two.

Bengal Government Press Employees' Union.

263. Mr. SHRISH CHANDRA CHAKRAVERTI: (*a*) Will the Hon'ble Minister in charge of the Finance Department be pleased to state whether there is a union called the Bengal Government Press Employees' Union and whether their office is located in the building of the Bengal Government Press?

(*b*) If so, will the Hon'ble Minister be pleased to lay on the table a statement showing—

(*i*) the names of the present office-bearers of the union, together with their designations, if any;

(*ii*) the number of members from each group of the employees, e.g., clerks, compositors, binders, etc., together with the total strength of the respective group;

(*iii*) the amount of subscriptions realised and the amount spent; and

(*iv*) the names of the auditors of the union?

(*c*) Is it a fact that all the matters of this union are printed in the Bengal Government Press?

(*d*) If so, will the Hon'ble Minister please state the date of sanctioning of the work, the quantity of matter printed, and the head under which the charge is debited?

(*e*) Is it a fact that special favours and concessions are granted to the members of this union in supersession of the claims of senior and more qualified hands in the Press?

(*f*) Will the Hon'ble Minister be pleased to lay on the table a statement showing—

(*i*) the names of the employees of the Bengal Government Press with designations—piece-workers as well as salaried workers —who have been promoted, degraded or suspended, during the period from June to December, 1937, together with period of service and remarks regarding their work, if any;

(*ii*) whether they belong to the Bengal Government Press Employees' Union, or not;

(*iii*) whether they are related to any office-bearers of the Bengal Government Press Employees' Union; and

(*iv*) the names of the new entrants during the period from June to December, 1937, together with their relationship, if any, with the office-bearers of the union?

The Hon'ble Mr. NALINI RANJAN SARKER: (*a*) Yes.

(*b*) (*i*) and (*ii*) Statements are laid on the Library table.

(*iii*) I am not prepared to disclose this information.

(*iv*) Mr. Sachi Nath Bhattacharjee and Babu Jogesh Krishna Talukdar.

(*c*) No.

(*d*) Does not arise.

(*e*) No.

(*f*) (*i*) and (*ii*) Three statements are laid on the Library table, but I have not given the names.

(*iii*) No.

(*iv*) A statement is laid in the Library. None is related to any office-bearer.

The system of unpaid apprentices in the office of the Administrator-General and Official Trustee of Bengal.

264. Khan Bahadur M. SHAMSUZZOHA: (*a*) Will the Hon'ble Minister in charge of the Judicial and Legislative Departments be pleased to state whether it is a fact that the system of unpaid apprentices is maintained in the office of the Administrator-General and Official Trustee of Bengal?

(*b*) If so, what is the number of such unpaid apprentices at present?

(*c*) How many years will it approximately take to absorb the existing staff of apprentices into the permanent staff?

MINISTER in charge of the JUDICIAL and LEGISLATIVE DEPARTMENTS (the Hon'ble Nawab Musharruf Hossain, Khan Bahadur): (*a*) Yes, they receive pay when they act in leave vacancies.

(*b*) Ten.

(*c*) This will depend on the number of vacancies that will occur. These vacancies can only occur by reason of the death or retirement, voluntary or compulsory, of members of the staff. During the past five years the total number of vacancies that have occurred is thirteen. The question of the introduction of a leave reserve system into the office is under examination.

Khan Bahadur M. SHAMSUZZOHA: Will the Hon'ble Minister be pleased to state the reason why so many men are taken when there is no prospect of absorbing them in the establishment?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Because so many people apply.

Mr. NARESH NATH MOOKERJEE: Will the Hon'ble Minister be pleased to state what is the minimum qualification required for appointment of such unpaid apprentices?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: The minimum qualification is the passing of the Matriculation Examination.

Leave reserves in the office of the Administrator-General and Official Trustee of Bengal.

265. Khan Bahadur M. SHAMSUZZOHA: (*a*) Will the Hon'ble Minister in charge of the Judicial and Legislative Departments be

pleased to state whether it is a fact that a proposal was made by the Government to maintain leave reserves in the office of the Administrator-General and Official Trustee of Bengal? If so, in which year?

(*b*) What action did the Administrator-General and Official Trustee of Bengal take and has been taking to have the system introduced into the office?

(*c*) Is it a fact that the apprentices in that office are made to act in leave vacancies but Muhammadan apprentices are denied such privileges of acting against longer leave vacancies?

(*d*) Is it a fact that the payment of apprentices who act in the place of permanent incumbents in leave vacancies, is made annually or half-yearly; if so, why?

(*e*) What was the amount per head drawn by each apprentice on average per month in the financial year 1936-37?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: (*a*) The question of leave reserves being given to the Administrator-General and Official Trustee was first raised in December, 1928. The carrying out of the proposed scheme was however deferred on the ground of financial stringency and the Administrator-General and Official Trustee was authorised to continue the system of recruiting "apprentices" since termed "unpaid apprentices". The question is again under examination.

(*b*) Does not arise.

(*c*) All unpaid apprentices are given equal opportunities of earning pay in leave vacancies. The distribution is made by the Administrator-General and Official Trustee himself.

(*d*) Payments for such acting appointments are made periodically, sometimes after two months and sometimes after three months as and when necessary bills for officiating pay are submitted to and passed by Accountant-General, Bengal.

(*e*) The average individual monthly acting pay drawn by "unpaid apprentices" during the calendar year 1936 in terms of man-months was Rs. 13-8-8.

Khan Bahadur M. SHAMSUZZOHA: Will the Hon'ble Minister be pleased to state if there is any objection to the payment of these apprentices month by month? Why the system of paying them after two months——

Mr. PRESIDENT: Order, order. The hon'ble member can put only one supplementary question at a time, and not two.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: As regards monthly system of payment, I think, there is some inconvenience. It depends upon the Administrator-General and Official Trustee. If he can manage to draw up the bills earlier, I do not think that the Accountant-General will object.

Khan Sahib ABDUL HAMID CHOWDHURY: Will the Hon'ble Minister be pleased to state what is meant by "in terms of man-months"?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: It is a printing mistake, it should be "nine months".

Staff of the office of the Administrator-General and Official Trustee of Bengal.

266. Khan Bahadur M. SHAMSUZZOHA: (*a*) Will the Hon'ble Minister in charge of the Judicial and Legislative Departments be pleased to state the total strength of the office of the Administrator-General and Official Trustee of Bengal and how many of the employees are Muhammadans?

(*b*) Is the percentage of Muhammadan assistants and others in the office up to the ratio fixed by the Government; if not, why not?

(*c*) Is it a fact that prior to the year 1924 no Muhammadan assistants were employed in the office of the Administrator-General and Official Trustee of Bengal; if so, why?

(*d*) Is it a fact that during the years 1924 to 1936, thirty-five vacancies occurred in the office out of which only eleven have been given to the Muhammadans; if so, what are the reasons thereof?

(*e*) What steps do the Government contemplate to take to secure to the Muhammadans the percentage fixed for them?

(*f*) Are the posts in this department classified as posts under scale and posts under grades?

(*g*) If so, what are the scales of pay in both kinds of posts and is there any Muhammadan in any grade; if not, why not?

(*h*) Are they not deprived owing to excuses that none of the present Muhammadan assistants are fit for the upper grade?

(*i*) Are there some non-matrics in the upper grade who are not Muhammadans; if so, why the Muhammadans are not appointed to such posts?

(*j*) Are there no suitable Muhammadans in the staff for the upper grade?

(*k*) If so, do the Government propose to raise their ratio by recruiting Muhammadans from outside?

(*l*) Do the Government propose to postpone the recruitment of non-Muhammadans till the Muhammadans get their percentage fixed for them in all the existing classes of posts?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: (*a*) The total strength of the office is eighty-five on the clerical staff and thirty on the menial staff. Of these the numbers of Muhammadans are twelve and seven, respectively.

(*b*) No.

(*c*) This is so.

(*d*) This is correct.

(*e*) *Vide* answer to (*l*).

(*f*) The clerical staff are graded according to the pay (scales of pay) that they receive.

(*g*) There are twelve Muhammadans in the following grades who are in receipt of the following pay:—

One drawing Rs. 75 Two drawing Rs. 70 One drawing Rs. 65 Two drawing Rs. 60	In scale of Rs. 40—100.
One drawing Rs. 55 Two drawing Rs. 50 Three drawing Rs. 40	In the scale of Rs. 40—90.

(*h*) No.

(*i*) and (*j*) There are some non-matriculates in the upper grade who are not Muhammadans. These men entered Government service about 25 years ago and have been promoted in the ordinary course as men fit for promotion to the grade in which they now are. The Muhammadan members of the clerical staff have not been in Government service long enough to be promoted to the upper grades.

(*k*) No.

(*l*) Government is addressing the Administrator-General and Official Trustee on the subject.

Khan Bahadur M. SHAMSUZZOHA: Will the Hon'ble Minister be pleased to state for how many years the senior-most Muhammadan clerk has been in office?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: I want notice.

Promotion of clerks in the civil court of Rangpur.

267. Maulana MUHAMMAD AKRAM KHAN (on behalf of Khan Bahadur M. Asaf Khan): (*a*) Will the Hon'ble Minister in charge of the Judicial and Legislative Departments be pleased to state whether it is a fact that in the cases of promotions in the civil courts of Rangpur only the claims of Hindu clerks are considered, ignoring the claims of qualified Muhammadans?

(*b*) Is it a fact that three junior Hindu clerks of the lower division were promoted to the upper division who do not possess the requisite qualifications, in supersession of the claims of other qualified senior Hindu and Muhammadan clerks last year and that one Hindu clerk, promoted, is a non-matric and not qualified?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: (*a*) and (*b*) No.

Appointment of the Head Clerk, Accountant and Sheristadar on the Munsif's Court of Rangpur.

268. Maulana MUHAMMAD AKRAM KHAN (on behalf of Khan Bahadur M. Asaf Khan): (*a*) Will the Hon'ble Minister in charge of the Judicial and Legislative Departments be pleased to state the reasons why no Muhammadan candidate was taken in any of the three vacancies caused by retirement of the Head Clerk, Accountant and Sheristadar of the Munsif's Court of Rangpur in December, 1937?

(*b*) Why was the new Head Clerk aged over twenty-eight years having no experience in the civil courts or District Judge's office, as required in the notification published in the *Calcutta Gazette*, appointed?

(*c*) Is it a fact that Hindu clerks are transferred in paper only but those orders of transfer are all along kept in abeyance on some pretext or other in spite of their transfers being overdue under the rules?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: (*a*) Because, more than 35 per cent. appointments were given to Muhammadans during July to September preceding and to maintain the communal ratio of Scheduled Castes.

(*b*) He was considered to be the best candidate, no suitable person being available from the clerical staff for appointment to the post.

(*c*) No.

Apprentices in the office of Administrator-General and Official Trustee, Bengal.

269. Khan Bahadur M. SHAMSUZZOHA: (*a*) Will the Hon'ble Minister in charge of the Judicial and Legislative Departments be pleased to state whether there is any source of income from which the apprentices in the office of the Administrator-General and Official Trustee of Bengal are paid?

(*b*) Is there any other office located in Calcutta under the Government of Bengal where the system of unpaid apprentices is still maintained?

(*c*) Can the work of the office be coped with only by the present permanent staff?

(*d*) If not, why are not the apprentices paid any remuneration in return for their services?

(*e*) If the answer to (*c*) be in the affirmative, why have the apprentices been taken in?

(*f*) Does the Hon'ble Minister propose to make some provision for payment of some allowance to these unpaid apprentices and to stop the practice of obtaining their services free?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: (*a*) The revenues of the Government of Bengal.

(*b*) I am not aware of any.

(*c*) No.

(*d*) The men work voluntarily for their training in the hope of being appointed to leave vacancies as they occur on pay Rs. 40 per mensem minimum and of being ultimately confirmed.

(*e*) Does not arise.

(*f*) The question is under examination.

Recruitment of Deputy Registrar in the High Court.

270. Rai MANMATHA NATH BOSE Bahadur: (*a*) Is the Hon'ble Minister in charge of the Judicial and Legislative Departments aware that in the High Courts of Patna and Allahabad, the recruitment to the post of Deputy Registrar in the Appellate Side is made either from Advocates or from members of the Provincial Judicial Service?

(*b*) Is it a fact that the interpretation of High Court Rules and Orders (Civil and Criminal), Appellate Side Rules, Civil and Criminal

Procedure Codes, Court-fees Act and Limitation Act are dealt with in the Registrar's Office?

(*c*) If the answer to part (*a*) of the question is in the affirmative, do the Government propose to recruit the Deputy Registrar, Appellate Side, of the Calcutta High Court, from the Bengal Civil Service (Judicial) or from amongst the advocates?

(*d*) Is it a fact that the High Court Retrenchment Committee in 1923 also recommended the appointment of one who has legal qualifications to the post of the Deputy Registrar?

(*e*) Is it a fact that the appointment of the Deputy Registrar in the Original Side is made from barristers, advocates or attorneys?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: (*a*) I am not aware of this.

(*b*) I believe this is so.

(*c*) and (*e*) The recruitment of officers in the High Court is made by the Chief Justice under section 241 (*1*) (*b*) read with section 242 (*4*) of the Government of India Act, 1935. By the courtesy of the Chief Justice I am able to say that draft rules prescribing the qualifications of candidates and conditions of service are under his consideration.

(*d*) The Committee recommended thus: "The possession of legal qualifications is an added advantage and while we do not wish to rule out the appointment of a thoroughly competent officer of the Court, the legal profession or the Bengal Civil Service would seem more suitable sources of recruitment."

Appointment of process-servers' peons and office peons in Rangpur Civil Courts in the years 1935-1937.

271. Maulana MUHAMMAD AKRAM KHAN (on behalf of Khan Bahadur M. Asaf Khan): (*a*) Will the Hon'ble Minister in charge of the Judicial and Legislative Departments be pleased to state how many process-servers' peons and office peons were appointed in the years 1935 to 1937, in Rangpur civil courts, and how many of them were Muhammadans?

(*b*) Why qualified Muhammadans from amongst the retrenched men of the district of Rangpur were not appointed in proportion to the vacancies?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: (*a*) During 1935-37, twenty-two process-serving peons and thirty-one office peons were appointed, of whom six of the former and thirteen of the latter class were Muhammadans.

(*b*) Of the nine retrenched peons who had applied, four were considered to be ineligible after examination, and the remaining five were appointed, of these three were Muhammadans.

Shifting of the Goalundo ghat station to a permanent site.

272. Rai Sahib INDU BHUSAN SARKAR: (*a*) Is the Hon'ble Minister in charge of the Communications and Works Department aware that the Goalundo *ghat* station is not permanent and shifts every year to the great inconvenience of the travelling public?

(*b*) Is it a fact that a proposal is pending with the Government for shifting the Goalundo *ghat* station to a permanent site near Baidyadangi?

(*c*) If so, what steps have been taken to remove the said station to a permanent site?

(*d*) If the answers to questions (*a*) and (*b*) be in the negative, do the Government propose to take steps for shifting the said station to a permanent site?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) Yes.

(*b*) No.

(*c*) and (*d*) Experience has shown that on account of the vagaries of the river, it is impossible to select a permanent site for the station in the neighbourhood of the place.

Short-notice Questions.

Mr. PRESIDENT: There are short-notice questions. One is of Khan Sahib Abdul Hamid Chowdhury.

Khan Sahib ABDUL HAMID CHOWDHURY: Will the Hon'ble Minister in charge of the Home Department be pleased to lay on the table the following information:—

(*a*) salary of the Presidents and Speakers of other Provinces having bicameral Legislatures in India;

(*b*) salary of the Presidents of the Council of State and the Indian Assembly respectively?

The Hon'ble Khwaja Sir NAZIMUDDIN: A statement is placed on the table.

I.—Statement showing the pay of Presidents and Speakers as available from the Civil List.

	President.	Speaker.
Assam ..	Rs 500 for the period the Council is in session.	Rs. 1,000.
Bombay ..	Rs 500+house allowance Rs. 100+motor car allowance Rs. 150 per mensem	Rs. 500+house allowance Rs. 100+motor car allowance Rs. 150 per mensem.
Bihar ..	Rs. 500 per mensem ..	Rs. 500 per mensem.

II.—Statement showing the pay of Presidents and Speakers available from the budgets (as no information is available from the Civil List).

	President.	Speaker.
Madras ..	Rs. 250 per mensem ..	Rs. 500 per mensem.
United Provinces	No information available. Provision for Rs. 8,000 has been made in the budget for the pay of the President and Deputy President.	Rs. 500 per mensem.

	President.
Central Legislative Assembly.	Rs. 4,000 per mensem.
Council of States	Rs. 4,000 per month during sessions of Council and for a fortnight preceding commencement and for a week following termination of each session.

Mr. PRESIDENT: The next one is of Mr. H. P. Poddar.

Mr. H. P. PODDAR: (*a*) Has the attention of the Hon'ble Minister in charge of the Home Department been drawn to the fact that the North-West Frontier Province Assembly has recently passed a Bill repealing section 124A of the Indian Penal Code, section 108, Criminal Procedure Code, the Press Emergency Powers Act, and amending section 144, Criminal Procedure Code, so as to exclude political operations from its provisions?

(*b*) If so, has the Hon'ble Minister's attention been further drawn to the fact that the said Bill was a Government Bill?

(*c*) Is it a fact that the Government of Bengal are considering the desirability of initiating a similar Bill to repeal section 124A, Indian Penal Code, section 108, Criminal Procedure Code, and section 144, Criminal Procedure Code, so far as it applies to political matters?

(*d*) If so, when?

(*e*) Does the Hon'ble Minister propose to take very immediate steps to repeal the Press Emergency Powers Act?

(*f*) If not, will the Hon'ble Minister kindly state the reasons therefor?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*), (*b*), (*c*) and (*e*) No.

(*d*) Does not arise.

(*f*) The retention of the provisions of the Act is still necessary.

Mr. LALIT CHANDRA DAS: Has the Hon'ble Minister's attention been drawn to the Press statement to the effect that in North-West Frontier Province Government has actually taken steps, so that section 144, Criminal Procedure Code, be not made applicable to political cases?

The Hon'ble Khwaja Sir NAZIMUDDIN: No, I have not read it.

Mr. PRESIDENT: There is another short-notice question. Mr. B. C. Datta will put that for Rai Surendra Narayan Sinha Bahadur.

420. Mr. BANKIM CHANDRA DATTA (on behalf of Rai Surendra Narayan Sinha Bahadur): (*a*) Is the Hon'ble Minister in charge of the Revenue Department aware that two communiques, one dated the 17th December, 1937, another of subsequent issue and of recent date from the office of Bengal Government (Revenue Department) have been distributed in the *mufassil* areas of the Province, explaining the clauses of the Bengal Tenancy (Amendment) Bill?

(*b*) Has such circulation made the realisation of rent very difficult?

(*c*) Does the Hon'ble Minister, pending consideration of the Bengal Tenancy (Amendment) Bill, propose to stop the circulation of these communiques?

(*d*) If not, does he propose to explain the real meaning of the said communiques by means of propaganda and meetings by the respective Subdivisional Officers, so that the tenants may pay their rent due to the zemindars, as well as to the Government where there is *khas mahal* or Court of Wards?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) Only one communique, dated the 17th December, 1937, on the subject has been distributed, in both English and Bengali.

(*b*) It has been reported to Government that the purport of the said communique is being misinterpreted by the tenants of some districts.

(*c*) No.

(*d*) Government have already issued orders directing the District Officers to instruct Subdivisional and Circle Officers in the course of their tours to ask the people to pay their rents regularly. It is also

proposed by Government to issue a supplementary communique shortly to remove misapprehensions.

Mr. PRESIDENT: It has come to the notice of the Chair that the informations promised by the Hon'ble Ministers in their replies to certain questions are sometimes placed on the Library table. This method deprives the members of obtaining such informations, as informations so placed are never printed in the Council Proceedings. I mentioned on a previous occasion that if there was any information which was to be supplied to the members in compliance with any such promises made by the Hon'ble Ministers in their *ad interim* replies to questions, it must be placed on the table of the House, which is the table where the clerk of the House, in other words, the Secretary of the Council sits.

Hereafter if any Hon'ble Minister, in the fulfilment of his previous promise made in an *ad interim* reply to any question, desires to place any information for the members, such informations shall be placed on the table of the House by a formal statement to be made by the Hon'ble Minister concerned. For that purpose, all such informations should, in the first instance, be sent to the Secretary of the Legislative Council, intimating him of the date on which the Hon'ble Minister desires to lay such information on the table of the House. On receipt of such information the Secretary of the Council will have them incorporated in the list of business for the day, in the usual form, and the Hon'ble Ministers will then lay the informations on the table of the House formally, by reading the respective entries in the day's list of business.

Information received by the Secretary from the Hon'ble Ministers, while the Council is not in session, will be collected and included in the list of business of the first meeting of the Council in the next following session. Informations so laid will be included in the day's proceedings of the Council. By this procedure the Hon'ble Minister will be free to give *ad interim* replies to such questions, on the date on which the answer falls due, by stating that the information is being collected, and will be laid on the table in due course. It will thereafter be open to the Hon'ble Ministers to send the promised informations to the Secretary of the Council, as soon as the informations are collected. This procedure is to be adopted by the Hon'ble Ministers only in such cases where the information asked for in a question are to be obtained from the distant parts of the province, and which are expected to take some time. It will, on the one hand, help the members to know that the Government are collecting the information, and at the same time, it will allow the Ministers some further time to collect all the necessary informations for being placed on the table of the House. But if any reference is made in the reply to a question to any Government publications, such publications may be placed in the Library, and in the reply it may be so stated.

Bengal Legislative Chambers (President's and Speaker's Salaries) Bill, 1937.

Mr. HUMAYUN KABIR: The other day I asked a question in connection with the refusal of the Lower House to agree to certain amendments which we had made in respect of the President's and Speaker's Salary Bills, and I asked you, Sir, whether, when this question would come again before the Joint Session, if any held at all, we shall be entitled to move amendments in order to reduce the salary of the Speaker, so that the salary of the Speaker and the President may be placed on the same level. On that day an answer was not given to me as it was in the midst of a division. May I have an answer to that question to-day, and particularly on account of the fact that the Hon'ble Finance Minister has made certain statements which seem to be contrary to what one on a normal reading of the law could understand.

Mr. PRESIDENT: I hope the hon'ble member knows that it is a well-known parliamentary procedure that during a division no question can be asked on any matter except on the subject of the division. If any authority is necessary, I would rather read the succinct reply of Sir Frederick Whyte on such an occasion where he stated: "It is very irregular to address the House during the process of a division. Points of order are allowed, but they should be strictly related to the issue before the House which is whether a division should be taken or not. If any irregularity occurs during the taking of the division, then it is the duty, of course, of the members to draw the attention of the Chair to it; but any other form of addressing the House is irregular and will be ruled out of order".

That is exactly the reason why I did not answer the hon'ble member's question on that occasion. I would refer the hon'ble member to section 74 (3) (*b*) of the Government of India Act, 1935, where the procedure to be followed in a joint sitting has been laid down. The wohle Bill as it was settled in the Legislative Assembly, and also the amendment that has been decided upon by this House, will be before the Joint Session. I am not in a position to say what particular amendments will be accepted as relevant, but a portion of sub-section (*b*) of the said clause which deals with the relevancy of amendments of Bills coming before a Joint Session, reads thus: "Such other amendments as are relevant to the matters with respect to which the Chambers have not agreed." It will be the duty of the presiding officer of the Joint Session first of all to settle what are the points of difference. If he thinks that it is a question about the parity of salary of two presiding officers, he will allow certain kinds of amendments, while on the other hand, if he feels that the question is about the amount of pay of the

different officers, then certain other kinds of amendments will be permissible. As I have already said, it will be for the presiding officer to decide about the relevancy and admissibility of amendments and the section of the Government of India Act quoted above makes it perfectly clear that the decision of the presiding officer as to the amendments which are admissible under this sub-section, shall be final. Of course as the Hon'ble Finance Minister said, that every member of the House is entitled to interpret the expressions in the Statute in the way he likes but the interpretation also includes the possibilities of misinterpretation. The President will be very reluctant to interrupt an hon'ble member in giving his interpretation, according to his own view. But if he feels that there is a deliberate intention to influence the vote of the House, there is no other alternative left to the presiding officer but to interrupt him. The final decision of the admissibility of amendments rests with the Chair.

GOVERNMENT BILL

The Bengal Expiring Laws Bill, 1938.

The Hon'ble Mr. NALINI RANJAN SARKER: With your permission I beg to move that the Bengal Expiring Laws Bill, 1938, as passed by the Assembly on the 3rd March, 1938, be taken into consideration.

Mr. PRESIDENT: Motion moved that the Bengal Expiring Laws Bill, 1938, as passed by the Assembly on the 3rd March, 1938, be taken into consideration.

Mr. HUMAYUN KABIR: I rise on a point of order, Sir. The Hon'ble Finance Minister has moved that the Bengal Expiring Laws Bill, 1938, be taken into consideration, but the point I wish to raise is that this Bill seems to be in clear violation of certain provisions of the Government of India Act, 1935, and as such *ultra vires* and totally illegal. I, therefore, want a clear ruling from the Chair, as to whether this House has jurisdiction over the subject matter of this Bill and if it is competent or entitled to discuss it at all. I base my point of order on the two following main grounds:—

First of all, the Bengal Expiring Laws Bill, 1938, seeks to put permanently on the Statute Book the Bengal Act XII of 1935, that is the Indian Stamp (Bengal Amendment) Act, 1935. I shall not raise the question now as to whether and how far that Act itself was *ultra vires*. Whatever may be the decision on that point, the Bengal Expiring Laws Bill, 1938, is definitely *ultra vires* so far as it seeks to continue and re-enact the provisions of Act XII of 1935. Section 100

of the Government of India Act, 1935, clearly lays down that certain matters are reserved for consideration by the Federal Legislature and certain other matters are reserved for the exclusive consideration of the Provincial Legislature and on certain other matters, there are concurrent powers of legislation by both the Centre and the Provinces. If we look to List I of the 7th Schedule to the Government of India Act, 1935, we find that the Provincial Legislature has no power to legislate in respect of any matter enumerated in that list. There we find the subjects over which the Federal Legislature has an exclusive power, and any subject which in any way touches upon any matters included in that list is outside the scope of the Provincial Legislature. We shall have to consider how far this Bengal Expiring Laws Bill touches any of the provisions which are included in this first list and I shall argue that that is actually the case. We find that item No. 57 of the List I to the 7th Schedule clearly lays down that the rates of stamp duty in respect of bills of exchange, etc., etc., and bills of lading are not Provincial subjects. The relevant portion is that the rate of Stamp duty in respect of bills of lading is entirely a Federal subject and as such, the Provincial Legislature has no right to legislate in respect of such rate. Therefore I contend that any Bill which seeks to legislate in respect of the rates of Stamp duty on bills of lading is outside the scope and competence of the Provincial Legislature and yet we find that the Bengal Expiring Laws Bill, 1938, which proposes among others, to re-enact the Bengal Act XII of 1935 violates this principle. For in this Bengal Act XII of 1935, we find that section 7 (7) refers to Article 14 in Schedule I (A) of the Indian Stamp Act; in other words, the Act II of 1899 as modified by Act III of 1922. This article 14 refers exclusively to bills of lading. The upshot, therefore, is that the Bengal Expiring Laws Bill by seeking to continue section 7 (7) of the Indian Stamp (Bengal Amendment) Act touches the subject matter, namely, in respect of the rates of stamp duty on bills of lading which is exclusively a Federal subject, and as such, the Provincial Legislature has no right whatsoever to consider any such Bill. That is the first basis for my point of order.

Secondly, there is the question of the competence of the House also with respect to Bengal Act X of 1935, i.e., the Bengal Electricity Duty Act, 1935. I have very grave doubt if the Provincial Legislature has any power to legislate in respect of electricity duty. Now, the Government may say that they rely on item No. 31 in Part 2 of List III of the 7th Schedule to the Government of India Act, 1935. Electricity is mentioned as one of the subjects on which the two Legislatures, the Provincial and the Federal, have concurrent power of legislation and it may be that Government are depending on this particular item in order to justify their inclusion of the Bengal Electricity Duty Act, 1935, in the provisions which they seek to continue by the Bengal Expiring Laws Bill, 1938, but there also——

Mr. PRESIDENT: The hon'ble member need not assume what Government think or do not think.

Mr. HUMAYUN KABIR: I will only argue that item No. 31 of Part II in List III of the Government of India Act, 1935, does not give any protection whatsoever, for I would refer also to item No. 45 in List I of the 7th Schedule where it is explicitly stated that duties on excise are a Federal subject with the exception of certain items which are specifically mentioned and among these specific exceptions the duty on Electricity is not one. Therefore, when there are two clauses in a Bill or two sections in an Act and they seem at first sight to be incompatible, the universally accepted procedure is so to interpret them that they may be complementary and not contradictory. That construction is to be put on particular clauses which enables us to regard them as mutually compatible, and the consideration of item No. 31 in the 3rd list and of item No. 45 in the first list together make it unmistakably clear that item No. 31 in the 3rd list refers to legislation in respect of the organisation of the electricity business, or of the electrification of the country, and the context in which it occurs further shows that it is the aspect of social utility service that is contemplated in that paragraph. Now, Bengal Expiring Laws Bill, 1938, is concerned, not with electricity as such, but with the duty on consumption of electricity. Since we find that in item No. 31, Part II, List 3, electricity is mentioned as one of the concurrent subjects, and in item No. 45, List I, it is said that excise duty except in certain specifically mentioned cases is a Federal subject, the inevitable conclusion is that a Provincial Legislature has power to legislate in respect of electricity so long as such legislation is not in respect of any excise duty on electricity. Therefore the question whether the Bengal Legislature has authority to legislate in respect of the Bengal Electricity Duty Act will depend upon the interpretation of whether that duty is excise duty or not. That is the question which we will have to decide.

I would submit that it is quite clear from Bengal Act X of 1935 that this is a duty on consumption. We find in section 3 of the Bengal Electricity Duty Act, 1935, that it is explicitly stated that "there shall be charged, levied and paid to the Government of Bengal, on the units of energy consumed for the purpose of light or fans or both, a duty at the rates specified in the First Schedule", and so on. The important words there are "units of energy consumed." Therefore, this Bengal Act X of 1935 which we seek to continue to-day, wants to impose a duty on the consumption of electricity, and the question which we have to decide is whether the duty on the consumption of electricity is an excise duty or not. As if to leave no doubt in that matter, Government in this Act X of 1935 have made it still clearer that it is a duty only on consumption, and on nothing else. In section 5, sub-section (*1*), of the

Act, it is explicitly stated that the licensee who collects this duty from the consumer, will pay it to the Government and he shall not be liable to pay any amount which he has not been able to collect from the actual consumer. In the proviso to section 5, sub-section (*1*), to the Bengal Act X of 1935, it is stated that "the licensee shall not be liable to pay the duty in respect of any energy supplied by him for which he has been unable to recover his dues." In other words, it is clearly laid down that the licensee is not responsible for this tax; this tax is to be realised only from the consumer. If the licensee fails to realise the duty from the consumer, then he is exempted from paying the amount of the duty. But that is not all; the Act goes still further, and in sub-section (*3*) of section 5 it is said that as a recompense for the trouble of collecting this duty from the consumer, the licensee shall be entitled to a rebate. In section 5, sub-section (*3*), of that Act, it is stated that "the licensee shall be entitled, for his cost of collection of the duty, to a rebate of such percentage as may be determined by the Local Government on the amount of the duty collected and paid by him under sub-section (*1*)." Now these three items taken together prove beyond any shadow of doubt or dispute that the licensee is only in the position of a collector. Not only is he in the position of a collector but he is actually paid for the trouble he takes in making these collections.

Independently of this, there is a further provision to which I wish to draw your attention and that is sub-section (*4*) of the same section in which it is said that when any person produces any energy for his own consumption, he also must pay the electricity duty. So even in such cases the duty shall be paid. For purposes of convenience I may quote this sub-section which says that "in the case of energy other than energy supplied by a licensee the person who generated such energy shall pay to the local Government at the prescribed time and in the prescribed manner the electricity duty payable under section 3 on units of such energy." Now, all these sections taken together prove that this is a duty on consumption, because in the last case there is no question of sale or production. If a person is producing electricity for his consumption, he has got to pay, because he consumes electricity, and therefore this tax is a tax on consumption.

Now, Sir, this also disposes of another argument which may be advanced, namely, the reliance on item No. 48, List II, 7th Schedule to the Act. On page 293 of the Government of India Act, 1935, which contains this paragraph, we find that there is a provision that a tax on the sale of goods and on advertisements can be levied by the Provincial Government, but I have so long been arguing that this duty on consumption of electricity is not a tax on sale of goods and certainly it is not a tax on advertisements. What I have said so far, proves beyond a shadow of doubt that this is not a tax on sale of goods. If it were, it would be realised from the producer, but here we have a case where it

is realised from the collector, and further, it is realised in cases where there is no sale at all. Therefore it is a duty on consumption; if it is a duty on consumption, levied even in those cases where electricity is generated privately, the question arises whether the duty can be called an excise duty. It is a duty on the internal consumption of goods, of goods which are produced within the country and consumed internally. If we turn to the different definitions of "excise," we find that the generally accepted definition of "excise" in the New English Dictionary, which is the standard work on the subject, is that excise means "any toll or tax". This is the first meaning or definition of "excise". But that is too general for our purpose. The second definition of excise is "a duty charged on home goods during manufacture or before sale on home goods." The important point here is "home goods and home consumption"; it is on the consumption within home areas that the excise duty is levied and from that point of view also the duty on electricity is an excise duty and not any other type of duty. Thirdly, in the New English Dictionary the definition is also given that "excise duty is a sort of inland customs",—in other words, on the consumption of goods within the country. If we look to Wharton's Law Lexicon, we find that excise there is defined as the "name given to taxes or duties laid on certain articles produced and consumed at home"; that is the important point produced and consumed at home. Here nobody can say that electricity is produced for distribution abroad. It is produced within Bengal and is consumed within Bengal. Again we find in Wayne's Legislative and Executive Power in Australia, a further definition of excise and it is this: "a mere license to sell or carry on business unconnected with production imposed merely with respect to sale of goods as existing articles of trade and commerce independently of local production is not a duty of excise." Therefore the important points is that it must be produced locally. Then it goes on, "nor is such a license though indirectly connected with production or manufacture an excise duty if it be regulative and not in the form of a tax." Therefore the two essential points are: It must be produced within the country, it must be consumed within the country, and it must be in the form of a tax and not merely to regulate the actual production of the commodity. I submit therefore that the Electricity Duty Act which we seek to re-enact by the Bengal Expiring Laws Bill, 1938, satisfies all these conditions, and therefore it is an excise duty, and as excise it comes under item No. 45 of List I, Schedule 7, to the Government of India Act, 1935, and is exclusively a Federal subject. Therefore in this Bengal Expiring Laws Bill, we have two items which are definitely outside the scope of the Provincial Legislature, namely, with respect to the rate of stamp duty on bills of lading and, secondly, in respect to the excise duty on the consumption of electricity within the province. Therefore I submit that this House is not in a position to consider this Bill at all.

Mr. PRESIDENT: Of course, there is no objection to raise any point of order at any stage. But it is desirable, if possible, for hon'ble members when such important points of order are going to be raised, to give the President notice. It is not infrequent in the history of parliamentary institutions, that members give notice not only weeks in advance, but also for months before such matters are raised on the floor of the House. It must be admitted however that important questions may be raised all of a sudden in the course of debates. One point, however, is very clear that the Chair, as the custodian of the rights and privileges of the House, would be unwilling to restrict the jurisdiction of the House in any way, unless, it can be proved beyond all reasonable doubts, that the House is incompetent to take up a certain legislation. So far, the questions raised may not cover all the three Acts that are attempted to be continued by this Legislature. Will it not be better, therefore, if the point of order is taken when the actual clauses are taken up and when these particular points come up for decision? But I admit that there is some difficulty, as all the Acts proposed to be continued have been put together in one schedule as is generally done in the case of expiring laws legislation. It has also been held that the mere fact that a certain part in the schedule may be declared to be *ultra vires* with regard to the jurisdiction of the Legislature should not debar the House from discussing the Bill. When the time comes for putting that particular clause or the schedule to the House, the Chair may refuse to put the question. In the meantime the Chair should like to consider the matter. The discussion may now proceed on the Bill.

Mr. HAMIDUL HUQ CHOWDHURY: On a point of order, Sir. When the Bill will be taken up, it will be taken up as a whole and only certain specific items will be raised. Therefore, unless the sections are taken one by one, there will be difficulty again.

Mr. PRESIDENT: That is also a very important point to be settled by the procedure to be followed. I would like to hear the Hon'ble Finance Minister. I find also there are difficulties in adopting the English procedure. The matter is dealt with in May's Parliamentary Practice at page 406 where he seems to be of opinion that particular sections cannot be amended. In like manner it is not within the scope of a committee on an expiring laws continuance Bill to amend the provisions of the Acts proposed to be continued or to abridge the durations of such provisions or to make permanent the Act proposed to be continued, but an amendment to exclude from continuance by the Bill distinct provisions of such Acts are in order.

Mr. HAMIDUL HUQ CHOWDHURY: But in the Central Legislature the exact provisions are incorporated in the Bill in a schedule form.

Mr. PRESIDENT: When I was a member of the Indian Legislative Assembly, an occasion like this arose and the following decision was given by the President of the Assembly:—

> "The Chair must hold that when Government come before the House with an amending Bill to extend the life of an existing Act which imposes a duty or levies taxation, the amount of that duty or taxation will also be open for discussion. For instance, in the present Bill the import duty on salt is 2 annas and 6 pies per maund. The existing Act will expire on the 31st March, and Government want, by this amending Bill, to extend the operation of the Act for one year more. Under such circumstances it will be perfectly open to this House to say that they would agree to the extension of this Act for one year more provided the duty is reduced to 2 annas or 1 anna and 6 pies. Therefore, all amendments which aim at reducing the amount of duty would be in order in such circumstances".

That was on the 28th of March, 1934, reported at page 2901-2. So there is some difficulty about the procedure to be followed as well, and I should like to hear the Hon'ble Finance Minister about the procedure he desires me to adopt.

The Hon'ble Mr. NALINI RANJAN SARKER: In that, Sir, I will be guided by your ruling.

Mr. HAMIDUL HUQ CHOWDHURY: As it appears in the Indian Legislative Assembly the exact provisions which they want to continue are provided in the Bill itself. But so far as this Bill is concerned, it is absolutely vague. Except certain schedules that are given, we cannot touch the whole Act behind it, because we do not know what are going to be taken up in this House.

Mr. PRESIDENT: But this procedure is quite familiar in the British House of Commons about bringing in bills for the continuance of expiring laws, and there they are guided by a certain principle. I shall give you the authority of Redlich, who states as follows:—

> "With a view to maintaining parliamentary control over taxation from year to year, a constitutional practice has been established whereby at least one important customs duty and at least one important direct tax are made subject to annual renewal. Accordingly, where the financial arrangement of any year requires the imposition of additional taxation or not, an Act must be passed every year to continue these expiring imposts; and when the Finance Bill, in which such

renewals proposed, is before the House, it is competent for any member to raise the question not only of the renewal of the particular impost in question, but of the contiuance of any other duty or tax, whatever may be the statutory time-limit, if any, prescribed for it."

Mr. HAMIDUL HUQ CHOWDHURY: The question we have raised is not answered by that. The practice is to introduce one of the several taxation measures before the House, and the House always takes the opportunity to criticise and cut down a tax. But what is to be done is whether the Act should be brought as it is or whether it should be brought in one sentence that the Act was there and will so continue next year. We want to know what procedure should be followed in this matter.

Mr. PRESIDENT: That is a question to be decided now. The practice in England about the continuance of these Expiring Laws Bills is not to permit particular sections to be discussed in the House, but as I have said already the Central Legislature on a similar occasion permitted amendments to sections of the Expiry Law because the House might be agreeable to accept the Bill if certain rigours in the sections were mitigated. It is a fact, that these Bills were passed to meet an emergency, and it is undoubtedly the right of this House to say that "we agree for the continuance of this kind of legislation even in this normal state, provided that the charges on the country may be reduced to a certain extent". That is only possible if the procedure of the House will permit amendments on particular sections of the Acts mentioned in the schedule to the present Bill.

I would once more like to hear the Government point of view.

The Hon'ble Mr. NALINI RANJAN SARKER: I want to point out, Sir, that the parliamentary procedure cannot be applicable here so far as the taxation is concerned, because there the taxations are renewed year by year, and that is done here also in the Central Legislature. In the Provincial Councils it is some sort of permanent taxation, and taxes are made before provision for expenditure is made. There is some difference in the procedure followed.

Mr. PRESIDENT: Yes, I do admit that there is some sort of difference. Now I would like to hear the Hon'ble Khwaja Sir Nazimuddin.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I think our practice should be that the House should express an opinion whether it is going to renew the Bill or not. If the convention is established that every clause of that Bill is going to be discussed, then it means

that practically the House will be called upon to do the work which has already been done previously, open the whole thing. As the hon'ble members are so anxious about the cost of administration, they ought to consider the cost of administration in this aspect too. If you are going to allow the renewal of taxes, the question here is not what the tax would be. That question has been threshed out and decided in the Legislature.

Mr. NARENDRA CHANDRA DATTA: By whom?

The Hon'ble Khwaja Sir NAZIMUDDIN: By the then elected representatives of the people.

Mr. NARENDRA CHANDRA DATTA: They are nowhere now. The New Constitution has come in.

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not think it has ever been the practice to re-open whatever has been decided previously by previous Governments. A certain amount of trust and continuity has got to be kept up.

The question here is whether Government are in a position to satisfy this House that this Act is now necessary, that these taxes should continue. If the House is satisfied they can say "Yes, we are satisfied, and the taxes are to be continued". If they are not satisfied, then they may say "No, these Bills are not to be renewed". But to go into the details and to try and touch every clause is not going to be of any help either to the House or to the country, and it takes a great deal of time of the hon'ble members of the House as well as it costs the State a lot of money. I think the principle should be, on questions of renewal, whether the House agrees to the renewal. It should not be again open to the House to discuss every clause and every aspect of that question, to go over the whole thing again. Here the question is renewal without fixed limit. Supposing it was a renewal for another three years, will the House even then want to go into the details? I think it is a principle which this House should not——

Mr. PRESIDENT: Sir Nazimuddin, I appreciate the viewpoint that you are stating. But I wish to point out to you that during the period of emergency the House voted taxes which they may even in the present normal times be willing to permit continuance provided the Government agree to reduce the rates of taxation. I am merely stating a hypothetical case and I ask you whether in such a case the Government would like to deprive the House of its right. If the House is not permitted to reduce the rates of taxes, perhaps they may be forced to vote against the whole measure. But if they can discuss or reduce some of the charges, they may be agreeable to pass the Bill.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, speaking for myself, I feel that these are matters which Government have taken fully into consideration as to what the effect of the passage of this Bill would be, supposing there was a reasonable opinion in the House that a certain reduction would help to smooth the passage of the Bill through the House. Government must have taken these facts into consideration, and they have come forward and have brought the Bill and they want a straight vote of the House whether you are to renew it or not. I fully agree, Sir, that there are certain occasions that demand a different sort of procedure. For instance, take the question of a big taxing Bill like the salt tax, where a small reduction makes a lot of difference to the amount, and where it may be possible that Government may come forward and say that they are prepared to accept amendments. There it is worthwhile. But I think this question should be left to the discretion of Government. Government may want at some time to bring up the renewal Bill in such a form as to come to a settlement if there is any difference of opinion on the subject as to the reduction of the rates. But when Government have come forward in a manner where they want a straight vote on the renewal question, then it is obvious that they consider that any minor modifications or any modification will not serve the purpose for which it has been brought, namely, speaking purely hypothetically, the deficit is so much, so much is the need, we want this amount of money and any reduction will not serve our purpose. In that case, they will have to come up to the House and say that we want the Bill as it is, and we do not want to re-open the question on the clauses of the Bill.

Mr. PRESIDENT: May I refer Sir Nazimuddin to one portion of May's book on "Parliamentary Procedure" where it is said "any amendment to exclude from continunace by the Bill, distinct provisions of such acts are in order." Is the Government prepared to accept this principle?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, Sir. I think the Government is quite prepared to stand by that, that if any one of the Acts, the House decides, is to be excluded, and it thinks that it is a fair thing——

Mr. PRESIDENT: There it is stated that "omission of distinct provisions of such Acts is in order" and not merely the omission of one of the Acts mentioned in the schedule. We will have to create a convention, and I think the House will be agreeable to help the Government in these matters as far as it can, in creating such conventions. I can allow time if Government desires to have any, to think over this problem and come to a decision. If they like to follow the English practice that distinct provisions of any of the Acts mentioned in

the Schedule, are to be allowed for being omitted by moving amendments, I am prepared to follow it, or if the Government insist that it must be passed into law as it stands, I can also understand that view as well.

Mr. HUMAYUN KABIR: Sir, I was going to submit that if the Government say that they want us to consider the Bill as a whole and not go behind what appears here,—very little appears here after all, none of the sections of the Bill which we propose to re-enact and continue appear on the order paper here, they are only mentioned by name,—if they take up that position, then supposing that my point of order is a relevant point of order and be ruled in order, the whole of this Bill goes into the waste paper basket. If they insist that we cannot go into particular sections, and it is with respect to particular sections in two of the Bills which have been introduced here that I have raised my objection, by insisting upon their right of considering the Bill as a whole they are jeopardizing the whole position. That is one consideration.

The second point which I want Government to consider is this: Government have stated that they have brought forward this Bill after due and mature deliberation. But, Sir, we, too, are present here in order to give *our* due and mature deliberation to the proposals which are brought before the Legislature. When an Act is passed, the responsibility is not only Government's responsibility, but we also share in that responsibility. We must take into consideration the fact that these taxes were imposed under certain conditions three years ago as an emergency measure and that these taxation Bills were put on the Statute Book for a temporary period. Now that the crisis is over and now that conditions have changed, does it stand to reason to ask this House to renew those taxations? I submit, Sir, that it is time that we should review the whole situation. It is the Legislature which is competent to review the situation and not Government, and if Government want to usurp the power of the Legislature, we, as members of the Legislature, are not going to submit to such usurpation. I submit, Sir, that the House should be given an opportunity to consider these measures item by item.

That is the second consideration, and in connection with that there is the further and third consideration that we in this House have very little control over financial matters, and the extracts which you have read out as regards parliamentary procedure show clearly that certain Bills are renewed from year to year in order to give Parliament an opportunity of discussing the economic and financial condition of the country in a particular year. Even though the members of Parliament know that many of these Bills will be renewed without any discussion at all, they know full well that the whole economic and financial

position of the country will be surveyed, and it is after that consideration and that survey that the Parliament renews these Bills from year to year. I do not see any reason why Government should not have the same confidence in this Legislature and allow it to review the position from year to year—especially in the case of such an emergency measure, as this admittedly is.

So, on these three considerations, Sir, I would urge upon Government not to insist on the consideration of this Bill by this House, because there is always the possibility that if my point of order stands, the whole Bill may be scrapped outright.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I want to draw the attention of the Hon'ble Minister to one point. He wants to follow the practice of the British Parliament in this way, viz., that he wants to have the Bill passed without allowing this House to move any amendment to specific provisions of the particular Act which he wants to extend. There is one difficulty in his way. In the British Parliament, in spite of the fact that many financial measures are renewed year by year, every member is given an opportunity to discuss the Act as a whole and take exception to any particular item, and the members can also bring forward any amendments for the purpose of repealing or modifying the Act; but here Government propose to make a temporary Act permanent and, at the same time, want the Legislature not to have any say in the matter and shut out all amendments for the purpose of improving the Act while making the law permanent. Therefore, Sir, they cannot take up contradictory attitudes at one and the same time; either they must take their stand on this and say: "Here is a measure which you can amend or reject, or you must pass it permanently without making any amendments whatsoever." Or "We have decided that the Act should be in this form; it is up to you to pass it now and remove any defects next year or you can then repeal it." But I submit, Sir, that if Government wants us to make these Acts permanent, every section of the different Acts must be tested and passed by this House, and the House must be given an opportunity to consider whether such a provision is necessary. It is to be finally settled whether it should be made a statute without any further interference.

Therefore, Sir, I submit that unless Government agree to Mr. Kabir's suggestion that each section should be open to discussion, there may be technical difficulty in taking the Bill into our consideration.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, I may begin by remarking that nothing is permanent without the sanction of the Legislature. I introduced this Bill for making these Acts permanent, but if at any time hon'ble members think that any or all the Acts should be repealed within, say, six months, it is open to this House to bring in a Bill to that end. What we want is in accordance with

parliamentary practice, and that is to continue the existing Acts. If any hon'ble member is of the opinion that a certain Act should go, he can have it repealed. That is my reading of the situation, Sir. When there is——

(At this stage several members began to discuss the matter from their seats.)

Mr. PRESIDENT: Order, order. If any hon'ble member desires to put any question to the Hon'ble Finance Minister, he should stand up and ask him to clear up any point and not carry on these interminable discussions.

The Hon'ble Mr. NALINI RANJAN SARKER: I submit, Sir, that what Government are doing has got the authority of parliamentary practice behind it, viz., that certain Acts can be continued by passing an Expiring Laws Bill.

Mr. HUMAYUN KABIR: In that case, Sir, the sections of the various Acts ought to be kept open to discussion.

The Hon'ble Mr. NALINI RANJAN SARKER: As the Hon'ble the President has himself said, the sections are not open to discussion in connection with this Bill——

Mr. HAMIDUL HUQ CHOWDHURY: No ruling has as yet been given by the Hon'ble the President.

Mr. PRESIDENT: Yes, I have not yet given my ruling.

The Hon'ble Mr. NALINI RANJAN SARKER: We cannot agree, Sir, that the operative clauses of this Bill should be attacked, because if you want to prolong these Acts, then only you require this sort of a Bill. If this Bill related to new taxation proposals, then the contention of my friends opposite would have been justified. But this is a Bill which relates to the continuance of certain old Acts, and that is why we have brought it forward in this short form.

Mr. PRESIDENT: Mr. Sarker, may I put you one more question?

The Hon'ble Mr. NALINI RANJAN SARKER: Certainly, Sir.

Mr. PRESIDENT: Will Government be agreeable to dropping a particular Act or omitting a particular section of a particular Act?

The Hon'ble Mr. NALINI RANJAN SARKER: If it is an operative section, Government cannot agree to it.

Mr. HAMIDUL HUQ CHOWDHURY: Is any distinction to be made, Sir? So far as deletion of any operative section is concerned, that must have reference to the Schedule. What we want, Sir, is to go beyond the Bill and attack the Act itself. That is allowed in England.

The Hon'ble Khwaja Sir NAZIMUDDIN: May I ask of you, Sir, whether it is allowed in England to go beyond such a Bill?

Mr. PRESIDENT: As I have already pointed out, by quoting passages from authorities, it is permissible.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I submit each measure is open to discussion, and not an Act section by section.

Mr. PRESIDENT: The point for consideration is, as I have already said when referring to page 406 of May's "Parliamentary Practice", whether particular sections can be amended or not.

Mr. HUMAYUN KABIR: What is the difference between a provision and an amendment?

Mr. PRESIDENT: If you are not agreeable to permit any section to be omitted and if for any reason, it is also held that the House is not competent to legislate on a particular matter included in any one of the Acts in the Schedule, then the Chair will have to hold that the whole Bill is *ultra vires*. Do I understand the Hon'ble Mr. Suhrawardy to say that no section of any Act can be touched, but the House must either accept the whole Act or none of it?

The Hon'ble Mr. H. S. SUHRAWARDY: Yes, Sir, except that the schedules of this particular Act may be touched, that means that a portion of the schedule may be repealed whereas the others will continue.

Mr. PRESIDENT: Take the particular case of the Stamp Act, if a particular article in it, is considered to be *ultra vires*, do you propose to hold the view that the whole Bill is therefore *ultra vires*? If you do so, the Chair will be compelled to rule out the whole of the Stamp Act as *ultra vires* and you will have no chance to suggest amendments for removing the objectionable item from the Act. You consider this point and instead of giving me a ready answer, give your reply later.

The Hon'ble Mr. NALINI RANJAN SARKER: If we are agreeable to allow discussion on different provisions, it will be confined to the amendments of which notice has been given. Sir, we want two minutes' time.

Mr. PRESIDENT: All right: in the meantime, will Mr. Narendra Chandra Datta move his amendment?

Mr. NARENDRA CHANDRA DATTA: I beg to move that the Bengal Expiring Laws Bill, 1938, be circulated for eliciting opinion thereon.

Mr. PRESIDENT: There has been some defect in the amendment itself because no time-limit is given. It is required by the rules to put some time-limit——

Mr. SHRISH CHANDRA CHAKRAVERTI: On a point of order, Sir. Before the ruling is given by you, can the hon'ble member move his amendment?

Mr. PRESIDENT: Certainly he can. The whole Act is not *ultra vires*. It is only certain portions of the schedule that are being objected to as being beyond the competence of the House. There are other portions which are certainly *intra vires*.

Mr. BANKIM CHANDRA DATTA: On a point of information, Sir. I understand the Government want to take time to give their opinion on this very important and complicated issue. In view of that, would it be advisable to take up these motions one after another?

Mr. PRESIDENT: This is a motion about circulation and it has got nothing to do with the merits of the whole Bill.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: On a point of order, Sir. If I remember aright, you have not given any ruling on the particular point that was raised and there cannot be any sense in sending out this Bill for eliciting public opinion unless the sections and provisions of that Bill can be altered either by public opinion or that being focussed by this House; what is the utility and usefulness of circulating this Bill unless the point is decided once for all that this House would be competent on the basis of public opinion elicited to make such alterations and modifications in the Bill as may be necessary in that light?

Mr. PRESIDENT: If the amendment is accepted, the Chair will give its ruling as to which portions of the schedule it considers *intra vires* and which portions *ultra vires*.

The Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Let the question be first decided and then the amendments may be taken up, otherwise there will be all sorts of complications.

Mr. HUMAYUN KABIR: Till the Government is prepared to admit the position that they will allow us to discuss particular sections, we cannot proceed. The schedules cannot be altered unless we alter certain sections of the Act. For example, if article 14, subsection (7) of section 7 of the Electricity Act has got to be omitted, it cannot be done without amending the section and so this can be done only by admitting that the sections of the Act are open to discussion. As soon as they are thrown open to discussion, each particular section is open to criticism and expression of opinion, and if Government say that they will not allow us to do that, what is the good of considering three or four clauses here which we have before us? The whole thing may be *ultra vires;* unless they accept that principle, we cannot proceed at all. They must first admit that this House has got the power and competence of discussing each particular section of the Act and the Executive Government has no right to usurp the function of the Legislature.

The Hon'ble Mr. NALINI RANJAN SARKER: We are not usurping the powers of the Legislature. What we are introducing has got legislative precedent. Mr. Kabir, I think, is misleading the House by saying that we are going to usurp the power of the Legislature.

Mr. NAZIRUDDIN AHMAD: Sir, with regard to the objection that item No. 1 cannot be taken up at this stage, I wish to say that this item is absolutely independent of the question that has been raised. The question is whether the Bill should be circulated for eliciting public opinion: you have made it clear, Sir, that if it is accepted, you will give directions as to which clauses are *ultra vires* and which are *intra vires*. I would go further and say that if the Bill goes without any direction, there is no harm in getting the opinion of the public because there might be possibility of some opinion being given on some matters on which it is not particularly sought. I do not think any harm could be caused by considering item No. 1 of the agenda. Nothing would be jeopardised by that.

Mr. HAMIDUL HUQ CHOWDHURY: Do I understand that we are limited to these two sheets only? (Showing the agenda paper.)

Mr. PRESIDENT: The only item now before the House is the motion of Mr. Narendra Chandra Datta. Will he fix any time?

Mr. NARENDRA CHANDRA DATTA: With your permission, Sir, I propose that the Bill be circulated for eliciting opinion thereon by the 30th April, 1938.

Mr. PRESIDENT: Order, order. The amendment of Mr. Narendra Chandra Datta, namely, that the Bengal Expiring Laws Bill, 1938, be circulated for eliciting opinion thereon by the 30th April, 1938, is moved.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, I raised a point of order which you have not decided. Unless and until that point is decided, this motion would not be in order at this stage.

Mr. PRESIDENT: I have decided that point against you.

Rai Sahib JATINDRA MOHAN SEN: On a point of order, Sir. I find that this subject is included in list No. 2 which can only be discussed on the 24th March, 1938.

Mr. PRESIDENT: Am I to understand that no hon'ble member wants to speak on the motion?

Mr. BANKIM CHANDRA DATTA: It is an insult to public opinion to invite the public to give their opinion on the Bill at this stage; if the public give certain suggestions, what would be their effect? If Government feel that public cannot be called upon to give their opinion on particular sections, what would be the utility of such opinion at all? I think it is insulting to public opinion.

Mr. PRESIDENT: The motion has been moved by one of your own party members.

Rai MANMATHA NATH BOSE Bahadur: Mr. President, Sir, I beg to submit that if we send this Bill for public opinion, on what subject the public will be required to give their opinion? The first thing that we find in the Bill which is to be circulated, is simply the schedule. Are the public to be requested to say something about the schedule, or about the sections which are in the Act itself? I beg to submit that it is quite useless to send this Bill to the public for their opinion at this very stage.

Mr. NARESH NATH MOOKERJEE: I submit, Sir, that no useful purpose will be served by prolonging this agony, so the House may adjourn till to-morrow, when you will be in a position to give your ruling on the points of order that have been raised.

Mr. HUMAYUN KABIR: Sir, I beg to move, in consonance with your ruling on the subject that we can discuss the question of circulating the Bill for eliciting public opinion thereon, that the Bill be circulated for eliciting opinion thereon by the 30th November, 1939.

Mr. PRESIDENT: Is it 1939?

Mr. HUMAYUN KABIR: I am sorry, "30th November, 1938", and my point in extending the date which has been suggested by my friend Mr. Datta, namely, 30th April, 1938, is that it will not enable us in time to get the opinion from the public on this very important question, and further, Sir, I would also ask again the Government what exactly is it that they want us to consider till they have decided the point as to whether the sections of the different Acts are open to our discussion, as at present there is very little to elicit public opinion thereon.

Mr. PRESIDENT: Order, order. Then will that be your reason to oppose this Bill for circulation?

Mr. HUMAYUN KABIR: No, Sir, I shall oppose it so far as the time section suggested by Mr. Datta is concerned, but if my time-limit is accepted, I think it would give Government sufficient time to cool their heads and to acquire necessary information, and then they can come before this House with a Bill that is properly drafted and also about which they may know their own minds. They can in that case ascertain the opinion of this Legislature also. I submit, Sir——

Mr. NAZIRUDDIN AHMAD: On a point of order, Sir. The question of time-limit has been raised for the first time before the House and I object to this on the ground that sufficient notice has not been given.

Mr. PRESIDENT: As a matter of fact, Mr. Datta's motion was incomplete. He suggested 30th April, 1938, as the date by which public opinion was to be elicited. Now the amendment is to extend the same to 30th November, 1938.

Mr. NAZIRUDDIN AHMAD: Sufficient notice has not been given, Sir.

Mr. RANAJIT PAL CHOUDHURY: It has been accepted by the Chair.

Mr. PRESIDENT: You should have taken objection to this at the outset. Now you are too late.

Mr. NAZIRUDDIN AHMAD: I object to the last amendment only.

Mr. HUMAYUN KABIR: Sir, my argument is that if we send this Bill as it is now for eliciting public opinion, the public can only be asked to express their opinion on the fact as to whether this Act should be called the Bengal Expiring Laws Act, 1938, and then again whether certain schedules should be there. Therefore, Sir, I submit that for Government to know their own minds and to make up their minds after getting proper instructions, 30th April is not a sufficiently long interval and that this Bill may be sent for circulation and public opinion elicited by the 30th November, 1938. I may also say in this connexion that the Government are very fond of sending every Bill which we bring forward, for circulation. They always think that there should be no legislation till public opinion has been elicited on a point like that. They think there should be no legislation till the public have had an opportunity of expressing their opinion on the matter which we want to discuss first and settle within ourselves. We, therefore, think that in a Bill like this—and this being particularly a Finance Bill and which touches the pockets of the public,—it is all the more necessary that the public should be given an opportunity of expressing their own opinions, and by eliciting public opinion we shall be able to know whether the present economic and financial condition of the province requires that there should be such a Bill at all. There is further this point, Sir, that when this Bill was considered in the Lower House, they always clamoured to be the guardians of the rights of the public and very often it is suggested that we in this House want to increase the expenditure of this House and other things like that but I submit——

Mr. PRESIDENT: Order, order, I would request the hon'ble member to avoid bringing in discussions of the Lower House as far as possible.

Mr. HUMAYUN KABIR: I submit to your ruling, Sir. I submit that this House is certainly competent to examine and express an opinion on a Bill of this nature because this House is also elective. In the case of the Upper House where there is no election and persons come by hereditary right or by nomination, it may be a sufficient ground that there should not be expressed a definitive opinion upon financial matters, but in this House which is an elective House, it is necessary that we should reflect public opinion; and we do not know

what is the public opinion on this particular Bill. In fact the little we know about it is that the public do not want any one of these Acts which are mentioned in the Schedule and therefore we do not think that this House would be in a position to attend to any proposal for considering this Bill without first getting our instructions from our masters, the public.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, I want to say something in reply to this.

Mr. PRESIDENT: Yes, you will have the right to do so. Let me move the amendment first.

Amendment of Mr. Humayun Kabir is that for the word "April" the word "November" be substituted.

Mr. NARENDRA CHANDRA DATTA: I accept the amendment.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, I crave your permission and indulgence of the House through you to move a short-notice amendment and I hope you would kindly permit me to do so. It is to the effect that the matter be kept in abeyance until the points of orders have been decided. That will give time to think out the motions of my friend over there and of Mr. Kabir alike; but at the same time it will be easier for us to discuss the matter, and I think we shall be showing scant regard for public opinion if we are not in a position to give them sufficient directions as to on what matters they are to express their opinion. That will simply be a mockery, I suppose.

Mr. PRESIDENT: You are entitled to move such a motion.

The question before the House is that the discussion be postponed for to-day.

The motion was agreed to.

Adjournment.

The Council then adjourned till 2-15 p.m. on Tuesday, the 22nd March, 1938.

Members absent:

The following members were absent from the meeting held on the 21st March, 1938:—

(1) Baksh, Mr. Kader.

(2) Banerjee, Rai Bahadur Keshab Chandra.

(3) D'Rozario, Mrs. K.

(4) Dutta, Mr. Kamini Kumar.

(5) Ellahi, Khan Bahadur S. Fazal.

(6) Hossain, Mr. Latafat.

(7) Hossain, Mr. Mohamed.

(8) Huq, Mr. Syed Muhammad Ghaziul.

(9) Jan, Khan Bahadur Shaikh Muhammad.

(10) Karim, Khan Bahadur M. Abdul.

(11) Khan, Khan Bahadur Muhammad Asaf.

(12) Mookerji, Dr. Radha Kumud.

(13) Mukherji, Rai Bahadur Satis Chandra.

(14) Sinha, Rai Bahadur Surendra Narayan.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Tuesday, the 22nd March, 1938, at 2-15 p.m., being the twenty-second day of the First Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble MR. SATYENDRA CHANDRA MITRA) was in the Chair.

Want of proper arrangements in the Council Chamber.

Khan Bahadur MOHAMMAD IBRAHIM addressed the House in Bengali. The following is the English translation of his speech:—

Mr. President. Sir, at the very outset let me make a submission. We, the members of the Council, seldom get a glass of water to drink here. No arrangements are made till the Assembly members come in. I hope the Hon'ble the President will remedy this state of things. Please do not make it another Karbala and be cursed for that.

Mr. PRESIDENT: Will any Hon'ble Minister present here please reply to the question and grievances of the hon'ble member?

The Hon'ble Mr. NALINI RANJAN SARKER: We do not know anything as to what arrangements have been made here for supplying drinking water. It is controlled by the Assembly Department.

Mr. PRESIDENT: I think the control of this Chamber is with the Assembly Department but during the actual period of the sitting of

the Council in this Chamber, this House must be the supreme authority to deal with all matters. The House will never tolerate the idea of its not having the full rights to regulate and control all matters in this Chamber so long as it is actually sitting here. I would warn the Hon'ble Ministers to take note of this. Unless we have full control when the House is sitting, I shall be compelled to adjourn the House from time to time if the Government of the day cannot make such arrangement.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, I think I have not been able to make myself understood by you. I never said that you have no control over this House. We do not know what arrangements have been made as regards supplying drinking water. As soon as the members of this House bring it to our notice, we can of course make necessary arrangements; otherwise, Sir, how can we make any arrangement?

Rai Sahib JATINDRA MOHAN SEN: Proper arrangements have to be made not only for drinking water, but for the Library also. The Librarian is never present, at least till a little time before the Assembly sits. We do not get any books. Every day we have to put in this complaint.

The Hon'ble Mr. NALINI RANJAN SARKER: This is not in our control. We can only bring it to the notice of the Speaker. If you want a separate Library, then that question will be considered by your Committee and necessary action will be taken.

Mr. PRESIDENT: These little inconveniences have been brought to the notice of the Chair many a time. It is not the duty of the hon'ble members of this House to go and beg of the individual Ministers or anybody else responsible, for the remedy of these grievances. The autonomous Chamber must have power enough to manage these affairs, and I think the Privileges Committee should recommend what steps might be taken to settle the matters once for all, so that hon'ble members need not be suppliant to the Ministers every time.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: I would take upon myself the whole task of doing these things for the members of the Upper House and for the convenience of everybody. I will personally go and beg of the persons who are in charge of this department, and I will see that nothing uncomfortable takes place (hear, hear).

QUESTIONS AND ANSWERS

The Bengal State Aid to Industries Act.

273. Rai Sahib INDU BHUSHAN SARKER: (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state—

(*i*) the year when the State Aid to Industries Act of Bengal was passed;

(*ii*) the amount of fund with which the Act began its operation;

(*iii*) the amount of up-to-date Government contribution towards the fund, year by year; and

(*iv*) the amount of contribution from private sources, year by year, the names of the contributors and the amounts of their respective contributions?

(*b*) Is it a fact that a large amount of money both on capital account as well as on interest is still overdue?

(*c*) Will the Hon'ble Minister be pleased to state—

(*i*) the total amount advanced up to date;

(*ii*) the amount of repayments on capital account as well as interest up to date; and

(*iii*) the amount outstanding on those accounts up to date?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) (*i*) 1931.

(*ii*) Rs. 56,800 in Government Promissory notes and Rs. 66-9-9 in cash.

(*iii*) Government do not make any contribution to the Fund which has been created as a local fund with the donations received from the public, but they have been providing money from year to year in the loans budget for the purpose of giving State aid under the Act. Only a small sum has hitherto been spent from the loans budget as the entire requirements have been practically met from the Fund money.

(*iv*) A statement is laid on the table.

(*b*) No.

(*c*) (*i*) Rs. 74,425 in the shape of loan and Rs. 25,000 in the shape of cash credit guaranteed with the Imperial Bank of India.

(*ii*) Rs. 8,175-6 on account of principal and Rs. 3,828-12-9 on account of interest.

(*iii*) Rs. 65,749-10 on account of principal and Rs. 2,225 approximately on account of interest. These amounts are not yet due.

Statement referred to in the reply to question No. 273.

Name of donors.	Date of receipt	Cash or cheque.	Government Promissory notes.
		Rs. a. p.	Rs. a. p.
1. S. C. Mitter, Esq., Industrial Engineer, Bengal ..	20-1-1933 ..	10,000 0 0	..
2. Khan Sahib Maulvi M. S. Azizuddin	11-1-1933 ..	2,500 0 0	..
3. Rai A. N. Das Bahadur ..	17-2-1933 ..	1,000 0 0	..
4. Mr. G. D. Birla ..	27-2-1933 ..	2,000 0 0	..
5. Dr. Sir U. N. Brahmachari, ..	13-6-1933 ..	..	10,000 0 0
6. Hon'ble Nawab Sir K. G. M. Faroqui. ..	13-6-1933 ..	..	4,400 0 0
7. Ditto ..	26-6-1933 ..	..	600 0 0
8. Mr. Hurdatroy Matilal Chamaria	7-7-1933 ..	15,000 0 0	..
9. Sir Hari Sankor Paul ..	24-8-1933 ..	8,544 4 4	..
Interest on deposits in the Bank up to 17th January, 1934 ..	..	7 6 8	..
		39,051 11 0	15,000 0 0
Of the sum of Rs. 39,051-11 a sum of Rs. 38,985-1-3 was invested in Government Promissory notes of the face value of ..	..	..	41,800 0 0
		..	56,800 0 0
Balance in cash ..	..	..	66 9 9
		..	56,866 9 9

274. Rai Sahib INDU BHUSHAN SARKER: (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state—

(*i*) the number of applications for advances under the Bengal State Aid to Industries Act received up to date with the amounts of advances prayed for; and

(*ii*) the number of applicants that have received such advances with the amounts received in each case, year by year, up to date?

(*b*) Is it a fact that a large number of applicants are refused pecuniary assistance under the said Act?

(*c*) If so, do the Government propose to place more funds at the disposal of the department for the purpose?

(*d*) Is it a fact that such advances so far made by the Government have not given any stimulus to any of the industries which have been helped so far?

(*e*) Will the Hon'ble Minister be pleased to mention the names of the recipients of State aid and the conditions of the industries before and after the Government aids were received by each of them?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: (*a*) (*i*) As regards the applications received up to the 30th March, 1937, the hon'ble member is referred to Appendix I to the Annual Report of the Board of Industries, Bengal, for the year 1936-37, a copy of which is placed in the Library As regards those received during 1937-38, a statement is also laid in the Library.

(*ii*) A statement is placed in the Library.

(*b*) Applicants who satisfy the terms and conditions of the Bengal State Aid to Industries Act and of the rules thereunder and put up practical schemes, are never refused assistance under the Act.

(*c*) So far no application has been refused for want of fund.

(*d*) No.

(*e*) The answer to clause (*a*) (*ii*) of the question gives the names of recipients of State aid. All these concerns except one or two are reported to be progressing satisfactorily.

Rai Sahib INDU BHUSHAN SARKER: With regard to answer (*c*), will the Hon'ble Minister in charge be pleased to state what is the rate of interest in general, demanded for the loans advanced?

Mr. PRESIDENT: As the hon'ble member has now put the question, I hope he will take his seat.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: In reply to clause (*c*), it is stated "So far no application has been refused for want of fund". Then how does the question of "interest" arise in this connection?

Registration Department.

275. Mr. LALIT CHANDRA DAS (on behalf of Mr. Naresh Nath Mookerjee): (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is a fact that the scale of pay and the grade of the clerks and the copyists of the civil and criminal courts are higher than that of the employees of the Registration Department?

(*b*) If the answer to (*a*) be in the affirmative, have the Government any proposal under consideration of revising the scale of pay and increasing the grade to that of the employees of the civil and criminal courts?

(*c*) Will the Hon'ble Minister be pleased to state whether it is a fact that the permanent copyists of the office of Registrar of Assurances, Calcutta, who go on casual leave, are to make good the arrears of work thus accumulated during their casual leave period, in addition to their respective daily duties?

(*d*) If so, do Government propose to take any steps to prevent the recurrence of such things in future?

(*e*) Will the Hon'ble Minister be pleased to state whether the Hon'ble Chief Minister in the course of the discussion of the cut motion under head No. 11—Registration, dated the 4th September, 1937, moved by Mr. P. Banerjee, and seconded by Mr. Fazlul Quadir in the Bengal Legislative Assembly, assured that the eight extra copyists attached to the Calcutta Registration Office would be made permanent?

(*f*) If so, what steps have been taken by the Government in the matter?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I answer the question for the Hon'ble Minister in charge?

Mr. PRESIDENT: Any Hon'ble Minister may answer, but if it has become the practice of the Hon'ble Mr. A. K. Fazlul Huq not to attend this House, he should settle that one Minister may take the responsibility and be ready to answer the supplementary questions as well. Chair observes that he attends the other House regularly, but he fails to attend this House. Questions of his department are some times answered by one Minister and some times by another. The right of putting supplementary questions is a valued privilege of the House and hon'ble members are entitled to demand answers to supplementary questions. If on an occasion a particular Minister in charge of a department is absent, another Minister can certainly answer for him. So, Sir Bijoy may reply for the Hon'ble Mr. A. K. Fazlul Huq.

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Minister in charge of the Education Department): (*a*) and (*c*) Yes.

(*b*) The question is at present under the consideration of Government.

(*d*) The question has been considered on several occasions. It is one of the general principles of administration that all arrears of work accumulating during casual leave have to be made good by the officer concerned during the subsequent period. Government have decided that there are no adequate grounds for making any exception to this general principle in the case of Registration Department employees.

(*e*) No.

(*f*) Does not arise.

276. Mr. LALIT CHANDRA DAS (on behalf of Mr. Naresh Nath Mookerjee): Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) what was the net income of the Calcutta Registry office in the year 1937;

(*b*) what was the amount spent during the year 1937 for the permanent copyists in the said office;

(*c*) what was the amount spent during the year 1937 for the extra establishment in the aforesaid office;

(*d*) what was the number of permanent copyists and the extra copyists in the said office; and

(*e*) whether the Hon'ble Minister is considering the question of including these extra copyists into a regular establishment?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Minister in charge of the Education Department): (*a*) Rs. 2,74,553-5-6.

(*b*) Rs. 4,562.

(*c*) Rs. 7,083-1.

(*d*) Permanent copyists eight and extra copyists thirty-six.

(*e*) No. But I shall consider how far the permanent staff of copyists in the Calcutta office can be increased with a view to providing regular employment to a few of the extra copyists now attached to the office.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I, Sir, with your permission answer the next question on behalf of the Hon'ble Mr. Fazlul Huq?

Mr. PRESIDENT: May I take it then, Sir Bijoy, that you will be responsible for answering all the questions standing in the name of the Hon'ble Mr. Fazlul Huq in future?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is very difficult for me to give any such assurance to-day. I am sure he will be present here on future occasions. For the last few days he has been in indifferent health, and that accounts for his absence in this House.

Mr. RANAJIT PAL CHOUDHURY: But he was present in the Assembly yesterday.

Mr. NARENDRA CHANDRA DATTA: Yes, he attended the Assembly meeting yesterday.

Mr. PRESIDENT: It now appears that the Hon'ble Mr. Fazlul Huq attended the Assembly yesterday, though he was not present in the Council. It seems he attends the Assembly regularly but is not attending this House. The Chair does not demand the presence of any particular Minister, but some Hon'ble Minister must be responsible for answering the supplementary questions on his behalf. If the Minister in charge of a particular department fails to attend the House and if no other Minister takes over the duty of answering supplementary questions on his behalf, then the House will be denied the valuable right of putting supplementary questions.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I quite realise the difficulty, and I shall make a point of bringing it to the notice of the Hon'ble Chief Minister. But I am sure that he does not mean any disrespect to the members of this honourable House. For the last few days he has been in indifferent health, and that is why he has been unable to be present in this House. In any case, Sir, I shall bring the matter to his notice.

Id day affairs in the Bethune College Hostel.

277. Khan Sahib ABDUL HAMID CHOWDHURY (on behalf of Mr. Mukhlesur Rahman): Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) the number of Muslim girl college students residing in the hostels attached to the Bethune College;

(*b*) the respective classes in which they read;

(*c*) how many of them are appearing at the ensuing University examinations;

(*d*) whether any arrangement was made to supply better food to the boarders on the last *Id* day on the 11th February, 1938, in accordance with the custom which obtains in the hostels there;

(*e*) has anything happened recently which has destroyed the harmony, goodwill and mutual toleration which existed amongst the students of both the Hindu and Muhammadan communities there;

(*f*) if so, who is or are responsible for the same;

(*g*) whether some Hindu boarders, led by some girl students of the 4th year class, were misled to call the Muslim boarders "*mletcha*," "*javan*" and by other objectionable epithets;

(*h*) whether some Hindu boarders held more than once a mock prayer ("*namaj*") in presence of the Muslim boarders in a manner calculated to wound the religious susceptibilities of the Muslim students;

(*i*) whether this behaviour on the part of the Hindu boarders were objected to by the Muslim boarders on the ground that it hurt their feelings;

(*j*) whether these unhappy incidents were represented to the Principal of the College;

(*k*) whether the complaints made by these Muslim boarders were supported by some of the Hindu boarders;

(*l*) whether any steps were taken by the Principal;

(*m*) if so, what steps she took;

(*n*) whether a Muslim boarder, Begum Meherunnessa, left the college hostel and has been living in the Sakhawat Memorial School;

(*o*) whether the aforesaid Meherunnessa is an examinee and is to sit for the I.Sc. examination on the 16th February, 1938;

(*p*) whether there are other Muslim students who are also required to sit for the I.A. examination to be held from the 16th February, 1938; and

(*q*) whether they are being disturbed owing to the aforesaid interference on the part of the Hindu boarders with respect to their studies?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Minister in charge of the Education Department): (*a*) Two (there is only one hostel attached to the Bethune College).

(*b*) The second year class.

(*c*) Two.

(*d*) Yes (including chicken curry).

(*e*) Yes, there occurred a petty quarrel of a non-communal nature, hardly deserving of notice.

(*f*) The quarrelling students themselves.

(*g*), (*h*) and (*q*) No.

(*i*) and (*j*) Representations were made to the Principal on the basis of a misunderstanding as ascertained by the Principal and as also admitted *repeatedly* by the complainants themselves later on in course of the Principal's enquiry.

(*k*) Some Hindu boarders made a common cause with Muslim girls (a fact particularly testifying to the non-communal nature of the quarrel) on points which have nothing to do with questions under (*g*) and (*h*).

(*l*) and (*o*) Yes.

(*m*) All boarders concerned were summoned and their grievances were given a sympathetic hearing at the conclusion of which the Principal was satisfied that whatever else the quarrel might be, it was not of a communal nature, and the Moslem complainants also admitted the fact emphatically and that more than once, before they left the Principal's office after the enquiry.

In course of the enquiry it transpired that each party had its own share of offence, against any future recurrence of which every offender was warned by the Principal.

(*n*) Yes, for three days during the *Id* festival, to stay with her elder sister. Returned after three days, and is now staying in the hostel.

(*p*) One other.

Floods in the districts of Birbhum, Burdwan and Murshidabad.

278. Rai MANMATHA NATH BOSE Bahadur (on behalf of Rai Satis Chandra Mukherji Bahadur): (*a*) Is the Hon'ble Minister in charge of the Communications and Works Department aware of the annual devastations made by the floods in rivers Mourakhsi and Kuya in the districts of Birbhum, Burdwan and Murshidabad?

(*b*) Is the Hon'ble Minister contemplating any measures to minimise or to stop altogether this annual devastation which affects an area of nearly one hundred square miles?

(*c*) If not, does the Hon'ble Minister consider the desirability of appointing qualified engineers to enquire into and report on the situation and also to suggest remedial measures?

(*d*) Have the Government this year or at any time meted out any relief to the landlords of the areas affected by the floods?

(*e*) If so, have these landlords, in their turn, similarly treated the tenants under them?

(*f*) Does the Hon'ble Minister propose to enquire into the condition of the tenants of these areas?

(*g*) Will the Hon'ble Minister be pleased to state whether Government intend to take up the Moshanjore scheme to irrigate the districts of Birbhum and Lower Burdwan by a system of canals immediately, or they have dropped the scheme altogether?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) Yes, the area is low and lies within the spill areas of the rivers Mour and Kuya.

(*b*) The Mour Reservoir project is under the consideration of Government. If it becomes practicable to give effect to this costly scheme, it will be possible to control floods in these rivers.

(*c*) and (*e*) Do not arise.

(*d*) No.

(*f*) No. There has been no unusual flood this year and the cultivators had a satisfactory crop.

(*g*) The scheme is under preparation.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state when the House will have a chance of hearing about the finality of the scheme regarding the Mour Reservoir?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: It is very difficult at this stage to give any idea about the time.

A Point of Privilege.

Mr. NARENDRA CHANDRA DATTA: On a point of privilege, Sir. The Hon'ble Home Minister in answer to short-notice question, put by Khan Sahib Abdul Hamid Chowdhury, stated that a statement was laid on the table of this House. My submission is that by the procedure which he adopted he deprived this House of the privilege of putting supplementary questions on the subject. I am afraid, Sir, that he intentionally avoided this, because the Hon'ble Finance Minister made a statement the other day which quite contradicted the statement of the Hon'ble Home Minister. I submit that the statement ought to have been read out in answer to the original question, and thus we should have been given an opportunity of putting supplementary questions.

Mr. PRESIDENT: What is the contradiction?

Mr. NARENDRA CHANDRA DATTA: The Hon'ble Finance Minister stated that the pay of the President of the Council of State was Rs. 2,000 per mensem, and the Hon'ble Home Minister stated that the pay of the President of the Council of State was Rs. 4,000 per mensem.

The Hon'ble Mr. NALINI RANJAN SARKER: On a point of personal explanation, Sir. I said Rs. 20,000——

Mr. PRESIDENT: Order, order. You made a mistake the other day, and I think that you owe it to the House to make an apology by way of correcting your statement. The Chair never volunteers any information unless it was sure of the facts. If you will please see the report of the proceedings, you will find that you stated that your information was that the pay of the President of the Council of State

was Rs. 2,000, while the salary of the President of the Assembly was Rs. 4,000.

As regards the point raised by the hon'ble member Mr. Narendra Chandra Datta, I would point out to the Hon'ble Ministers that, unless the answers are too long, it would be better to read out the answers in the House, so that hon'ble members may not be deprived of their right of putting supplementary questions.

The Hon'ble Mr. H. S. SUHRAWARDY: May I say one thing, Sir, with regard to this? If we are to refer to the question and answer under review, I do not think it fair for the hon'ble member to say that Sir Nazimuddin intended to avoid supplementary questions. Sir, we have not the slightest intention of avoiding supplementary questions which hon'ble members desire to ask of us. If you will please refer to the question, you will find that the hon'ble member who put the question desired that the statement should be laid on the table, and the statement was accordingly laid on the table. Without referring to that question, I submit that the hon'ble member should not have brought to the notice of the Chair what he considers to be a breach of the privilege of this House.

The Hon'ble Mr. NALINI RANJAN SARKER: On a point of personal explanation, Sir. So far as I remember,——

Mr. PRESIDENT: Order, order. You can raise this question another day. It is perfectly natural that you may not remember exactly what you said that day. After referring to the report of the proceedings, if you still think that it is necessary for you to offer an explanation, the Chair will be only too glad to listen to your explanation.

The Hon'ble Mr. NALINI RANJAN SARKER: That occasion may not arise, Sir, when the proof of the proceedings comes to you. So far as I remember, I said Rs. 20,000 a year, and you said——

Mr. PRESIDENT: That was not the point. So far as I remember you said Rs. 2,000 for the Council of State President and Rs. 4,000 for the Assembly President.

GOVERNMENT BILL.

The Bengal Expiring Laws Bill, 1938.

Mr. PRESIDENT: The House will now take up the discussion of the Bengal Expiring Laws Bill, 1938. The House was yesterday discussing the amendment of Mr. Humayun Kabir to the amendment of Mr. Narendra Chandra Datta.

Mr. HUMAYUN KABIR: May I, Sir, have leave of the House to withdraw my amendment to the amendment of Mr. Narendra Chandra Datta?

Mr. PRESIDENT: Is it the pleasure of the House to permit Mr. Humayun Kabir to withdraw his amendment?

The Hon'ble Mr. H. S. SUHRAWARDY: On a point of order, Sir. Mr. Narendra Chandra Datta on the last occasion accepted the amendment of Mr. Humayun Kabir——

Mr. PRESIDENT: The Hon'ble Mr. Suhrawardy ought to know that it is not open to any member to accept an amendment to his amendment without the consent of the House.

May I enquire if leave is granted to Mr. Humayun Kabir to withdraw his amendment? Is there any dissentient voice?

Mr. SACHINDRA NARAYAN SANYAL: Yes, I oppose.

Mr. PRESIDENT: In that case, it cannot be allowed to be withdrawn.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, may I submit one thing in connection with the amendment of Mr. Humayun Kabir. He said that the Bill be circulated for eliciting public opinion thereon by the 30th November. But I may point out that in the meantime all the Acts will expire, so if that amendment is passed, then practically the Bill will be killed. I explained this position to Mr. Humayun Kabir and that is why he wanted permission to withdraw his amendment.

Mr. PRESIDENT: As I have held once before, if there is any objection to the withdrawal of the amendment, the withdrawal is not permitted. I should once again ascertain if it is the desire of the House to permit Mr. Humayun Kabir to withdraw his amendment.

Mr. SACHINDRA NARAYAN SANYAL: I object to leave being granted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Let the motion be put to the vote.

Mr. PRESIDENT: The question before the House is that "30th April be substituted by 30th November".

The motion was lost.

Mr. PRESIDENT: The question before the House is that the Bengal Expiring Laws Bill, 1938, be circulated for eliciting opinion thereon by the 30th April, 1938.

The motion was lost.

Mr. NARENDRA CHANDRA DATTA: Sir, I beg to move that the Bengal Expiring Laws Bill be referred to a Select Committee consisting of the following members:—

(1) The Hon'ble Mr. Nalini Ranjan Sarker, Minister in charge of the Finance Department,
(2) Mr. H. P. Poddar,
(3) Mr. Naresh Nath Mookerjee,
(4) Mr. Lalit Chandra Das,
(5) Maulana Muhammad Akram Khan,
(6) Mr. Humayun Kabir,
(7) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,
(8) Rai Surendra Narayan Sinha Bahadur,
(9) Khan Bahadur Saiyed Muazzamuddin Hosain,
(10) Mr. Kader Buksh,
(11) Mr. Mesbahuddin Ahmed,
(12) Mr. Nur Ahamed,
(13) Mr. Rezzaqul Haidar Chowdhury,
(14) Mr. Moazzemali Chaudhury,
(15) Rai Sahib Indu Bhusan Sarker,
(16) Rai Sahib Jatindra Mohan Sen,
(17) Khan Bahadur Ataur Rahman,
(18) Mr. D. H. Wilmer,
(19) Mr. E. C. Ormond,
(20) Begum Hamida Momin,
(21) Mr. Sachindra Narayan Sanyal, and
(22) the mover,

of which seven members will form a quorum.

The House remembers it well that at the time of presenting the budget, the Hon'ble Finance Minister stated that he had not taken into consideration the proceeds that would come out of these four taxation Bills, because he was not certain whether they would be passed by this House. So the probable proceeds from these four taxation Bills were not put into the probable receipt side. Now I fail to understand what

was the hurry for bringing in these Bills before the budget session of the Lower House was over. At that time, he told the House that these Bills would expire in August or September next.

Sir, I may point out that these Bills were passed by the old Council which was not really speaking representative of the people, that is, before the introduction of the provincial autonomy. Now the Assembly and the Council are more representative of the people and this Council should have the opportunity of examining the provisions of these Bills so that if there are defects in the Bills they may be rectified. But, Sir, the Ministry wants that they should be passed without considering the implications of the different sections of the Bills. My appeal to you is that the House should consider my amendment and accept it so that the House may have an opportunity of considering the implications of the Bills. This will not in any way handicap the Ministry because the time-limit is only up to the 30th April. As far as I have been able to gather, these Bills will expire at the earliest by the 30th of May next.

Mr. PRESIDENT: Motion moved that the Bengal Expiring Laws Bill be referred to a Select Committee consisting of the following members:—

(1) The Hon'ble Mr. Nalini Ranjan Sarker, Minister in charge of the Finance Department,
(2) Mr. H. P. Poddar,
(3) Mr. Naresh Nath Mookerjee,
(4) Mr. Lalit Chandra Das,
(5) Maulana Muhammad Akram Khan,
(6) Mr. Humayun Kabir,
(7) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,
(8) Rai Surendra Narayan Sinha Bahadur,
(9) Khan Bahadur Sayed Muazzamuddin Hosain,
(10) Mr. Kader Buksh,
(11) Mr. Mesbahuddin Ahmed,
(12) Mr. Nur Ahmad,
(13) Mr. Rezzaqul Haidar Chowdhury,
(14) Mr. Moazzemali Chaudhury,
(15) Rai Sahib Indu Bhusan Sarker,
(16) Rai Sahib Jatindra Mohan Sen,
(17) Khan Bahadur Ataur Rahman,
(18) Mr. D. H. Wilmer,
(19) Mr. E. C. Ormond,

(20) Begum Hamida Momin,

(21) Mr. Sachindra Narayan Sanyal, and

(22) the mover,

of which seven members will form a quorum.

Mr. HUMAYUN KABIR: On a point of information, Sir. When is the Select Committee going to submith its report? There is no mention of any date.

Mr. NAZIRUDDIN AHMAD: That is our reason for objecting to the motion.

The Hon'ble Mr. H. S. SUHRAWARDY: Perhaps you will find that there is no provision in the rules for referring it to a Select Committee by this House.

Mr. PRESIDENT: If it has not been referred to a Select Committee by the other House, this House has the right to refer it to a Select Committee. If the Hon'ble Minister will refer to section 85 of the Rules and Standing Orders he will find: "Any member may (if the Bill has not already been referred to a Select Committee of the Assembly or to a Joint Committee of both the Chambers, but not otherwise) move as an amendment that the Bill be referred to a Select Committee."

The Hon'ble Mr. H. S. SUHRAWARDY: I was in error. I was thinking of there being no provision for circulating a Bill for public opinion.

Mr. PRESIDENT: As regards the point of order raised by Mr. Humayun Kabir, I may say that section 54 (2) (*a*) of the Bengal Legislative Council Rules and Standing Orders requires a member, who gives such a notice, to fix a date. I know that in some other Houses there is such a rule which requires a date to be fixed.

Mr. NAZIRUDDIN AHMAD: I oppose the motion on the ground already referred to, that is the motion does not bear any date, and we will have to wait till Doomsday for the report. The second objection is that the Acts will expire in the meantime and if the Acts are killed, it will be impossible for us to revive them. That is the difficult question for you to consider. But I think that if the Acts are killed in the meantime, they cannot be made alive again.

Mr. NARENDRA CHANDRA DATTA: Sir, may I with your permission give a date for submission of the report by the Select Committee? I beg to move that the report be submitted by the Select Committee by the end of May, 1938.

Mr. KHORSHED ALAM CHOWDHURY: I oppose the motion because it vitally goes against the original motion itself. No time-limit has been mentioned at the initial stage; so it cannot be done now.

Mr. RANAJIT PAL CHOUDHURY: Under what section?

Mr. KHORSHED ALAM CHOWDHURY: There is no such section.

Mr. PRESIDENT: The rule requires that there should be sufficient time fixed for amendments before they are taken by the House. Unless the President in his discretion suspend the rule and ordinarily if there is no unanimity, at least if there is not a good deal of opinion in favour of suspending the rule, the President is not willing to suspend the rule. In this case I allow the member to amend his motion to conform to the rules. Of course that is no bar to the Select Committee submitting its report as early as possible.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, Mr. Datta has raised a point that I have not taken into consideration the income from these taxes. That is not quite correct. I have taken about 11 lakhs of rupees out of the proceeds of these duties into consideration in this year's income; the rest I did not take into consideration, because I was not sure whether those taxes will be continued. It is not for some immediate necessity that we want to continue these taxes. On the last occasion when these taxes were imposed, they were meant for the purpose of bridging the gulf or rather reducing the disparity between income and expenditure in those days; but now we want to extend these duties for the purpose of carrying on our programme of nation-building activities for which a large amount of money and a recurring expenditure will be necessary.

In this very House at the time of the discussion of the budget, many members pointed out that we were much backward in our nation-building activities and they insisted that we ought to begin those activities as early as possible. In pursuance of this it is absolutely necessary that these taxes should be continued, so that sufficient money might be available for nation-building activities. I can assure this House that they are not meant for increasing the activities in the ordinary routine work of Government, but they are only meant for nation-building activities.

Then Mr. Datta has said that these Acts were passed by a Council or Legislature which was not representative, but we are working many of the laws which were passed by that body. It is usual to act according to the law passed by previous Legislature. We are practically working in almost all the departments according to the law prescribed by the old Legislature. So I do not think there is any poin:

in Mr. Datta's argument that because these laws were passed by a Council which was not so representative as the present one, they cannot be continued by this House.

Mr. HUMAYUN KABIR: Sir, there is only one consideration which in my mind operates to some extent in favour of sending this Bill to the Select Committee and that is in connection with the point of order that I raised yesterday. No ruling has yet been given on that point of order, but it may be that some of the items in this Bill may be debarred if a ruling is given on that point of order in a particular way. If the Bill is sent to a Select Committee now, it may be so amended as to escape the mischief if that point of order is sustained. This is one of the considerations which might, to some extent, suggest that it is better, the Bill should be sent to a Select Committee instead of considering it here on the floor of the House.

There is one other consideration which we have got to keep in mind. The Finance Minister has just now said and with justice that in Bengal we want more money for the nation-building departments, and I for one think that we want more taxation in Bengal. I am not for the reduction of taxes as such, but nevertheless we have to decide what kind of taxation we want and who is it that we want to tax. When we are considering any taxation proposal we ought so to frame our proposals that this burden of taxation may fall on those who are capable of bearing the burden and that is the test which will have to be applied to the Bill which has been brought forward by the Hon'ble Finance Minister.

With regard to the four Acts which are mentioned in the Schedule, it might at first sight appear that these taxes are going to be imposed only on those who are capable of bearing the burden of additional taxation. I do not know how far this contention is really correct. If we take the Bengal Electricity Duty, we know that in a city like Calcutta it is necessary that electricity should be introduced in those areas where the labourers and the poorer sections of the people live. We all know what terrible conditions exist in Calcutta during the winter months on account of smoke, on account of dust and dirt. Many of those areas are not fit for human habitation. If electricity is made cheaper, there is no doubt that there would be greater use of electricity and if there be greater use of electricity, it would improve the sanitary condition of the city. From that point of view we should consider very seriously whether the Bengal Electricity Duty is not going to hamper the extensive use of electricity and thus injure the interests of the poorer citizens of Calcutta.

There is also another consideration. We want the development of a larger number of small-scale industries for the province. For that again electricity is necessary. To-day small-scale industry has

become a possibility only because of the fact that machinery can be operated with cheap electricity. If we put a duty on electricity, we put a very severe burden upon those who want to start small-scale industries. From that point of view again, we have to consider whether this electricity duty is going to be a burden only on those who are capable of bearing it or also on those who are not capable of bearing the burden.

Again there is the question about the concerns which are established in *mufassil* areas. I know there are certain exemptions. But the question is whether those exemptions go far enough. Unless the Bill is open to discussion on the floor of the House, we do not know how far this will give adequate protection of the type that we require.

Then again take another item of taxation which is mentioned here and which at first sight seems to be one which ought to be taxed, namely, taxation provided in the Bengal Amusement Tax. It may be said that if people want amusement they ought to pay for it, and they should not mind if an additional burden of tax is put on them. I think this is entirely wrong. Amusement is as much a necessity in the life of an individual as other amenities and this is all the more so in the case of persons who have got no diversity in their lives, persons who have got no variety of interests. For all such persons in our country and in all countries of the world some sort of amusements is a definite necessity. The men who have to perform their day-to-day work without any variation, require some diversion, some amusement. So far as the Bengal Amusement Tax is concerned, it touches even those sections of the people who are the poorest, those who cannot pay for their amusements. To that extent this Bill is a derogatory measure.

These are the considerations we have to keep in mind. First of all the question about the point of order which I raised yesterday and secondly, the question how far the Bengal Electricity Duty is going to hamper the further use of electricity by the poorer sections of the people and thirdly, how far the Bengal Amusement Tax is going to stand as an obstacle to that little amount of enjoyment which the poorer section of people in our country so often extort from the adverse circumstances in which they are placed in life. In view of these circumstances, I will appeal to this House to consider whether the Bill should not be sent to a Select Committee.

Khan Sahib ABDUL HAMID CHOWDHURY: Sir, I rise to oppose the motion for referring the Bill to Select Committee, and I do so mainly on two grounds. Sir, the Bengal Expiring Laws Bill covers four different Acts which are due to expire within a very short time. So we must come to a definite conclusion as to whether we should give our consent to the subject-matter of the Bill without any loss of time.

If the time by which this Bill is to expire passes away before the Select Committee comes to a decision and submits its report, it will be of no use to us to consider the Bill. Then again a very important point of order has been raised in connection with this Bill, a ruling to which remains to be given from the Chair. Till that ruling is given we do not know where we are. We do not know what is the scope of our consideration; we do not know whether it is within our jurisdiction to consider the four different taxes separately or to treat the subject-matter of the Bill as one subject only. We also do not know if any amendment——

Mr. PRESIDENT: Order, order. So far as that question is concerned, there is no insuperable difficulty, because in referring a Bill to a Select Committee the House and the President have the right to give them instructions as to how they are to proceed, and if the Bill is referred to a Select Committee, the Chair will give its ruling before it is so referred.

Khan Sahib ABDUL HAMID CHOWDHURY: What I mean to say, Sir, is that if the Bill is sent to Select Committee in these circumstances, the Committee will not know what is the scope of their consideration.

Mr. PRESIDENT: That may be done now. Even if this motion is accepted, it will be within the competence of the House to lay down for the guidance of the Select Committee some particular points of reference.

Khan Sahib ABDUL HAMID CHOWDHURY: Sir, at least on the first ground that I have raised, I oppose the motion to refer the Bill to a Select Committee.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, I shall be very brief. My friend Mr. Kabir has raised the point that by the imposition of this tax on the consumption of electricity, the small industries will suffer, but under this Act industrial undertakings are exempted from paying any duty. Then, Sir, he has mentioned that this duty will hamper the growth of electricity undertakings in the *muffasil*. First of all, so far as the new undertakings are concerned, they are duty-free up to three years and from the past record it can be shown that in spite of this tax, electricity undertakings are growing almost in every district in Bengal. Then, with reference to the Amusement Tax, there also it can be shown that after the imposition of this tax the number of play-goers and those who visit cinemas have not lessened. As to the poor people, God willing, if we can provide the money, we shall ourselves arrange to have cinema shows periodically for their enjoyment and amusement.

Mr. NARENDRA CHANDRA DATTA: Am I not entitled to reply, Mr. President?

Mr. PRESIDENT: You are unfortunately late. You did not take the chance that was offered.

The question before the House is that the Bengal Expiring Laws Bill be referred to a Select Committee consisting of following members:—

(1) The Hon'ble Mr. Nalini Ranjan Sarker, Minister in charge of the Finance Department,
(2) Mr. H. P. Poddar,
(3) Mr. Naresh Nath Mookerjee,
(4) Mr. Lalit Chandra Das,
(5) Maulana Muhammad Akram Khan,
(6) Mr. Humayun Kabir,
(7) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,
(8) Rai Surendra Narayan Sinha Bahadur,
(9) Khan Bahadur Saiyed Muazzamuddin Hosain,
(10) Mr. Kader Baksh,
(11) Mr. Mesbahuddin Ahmed,
(12) Mr. Nur Ahamed,
(13) Mr. Rezzaqul Haidar Chowdhury,
(14) Mr. Moazzemali Chaudhury,
(15) Rai Sahib Indu Bhusan Sarker,
(16) Rai Sahib Jatindra Mohan Sen,
(17) Khan Bahadur Ataur Rahman,
(18) Mr. D. H. Wilmer,
(19) Mr. E. C. Ormond,
(20) Begum Hamida Momin,
(21) Mr. Sachindra Narayan Sanyal, and
(22) the mover,

and the report be submitted by the Committee by the end of May, 1938.

The amendment was lost.

Mr. PRESIDENT: I shall now take up the Bill, and for convenience the Schedules will be taken first.

Mr. LALIT CHANDRA DAS: May I, with your permission, submit one thing, namely, that I desire to oppose the motion of the Hon'ble

Finance Minister that the Bill be taken into consideration, as per item 3 in the List of Business?

Mr. PRESIDENT: Order, order. That motion is clearly out of order, because it is a direct negation of the motion before the House. If the hon'ble member thinks that by giving this notice he will have the right to address the House, he is mistaken, because the Chair is not bound to call any member merely because he has given notice of an amendment. However, the motion is before the House, and you may, if you wish, speak opposing the original motion that the Bill be taken into consideration.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, I rise to oppose the motion of the Hon'ble Finance Minister. Sir, anybody who is acquainted with the history of these taxation measures, knows that these taxation measures were adopted for the purpose of meeting the threat of the Hon'ble Finance Member of the Government of India, and standing on the floor of this House, Sir John Woodhead in February, 1935, declared that unless the Bengal Legislative Council did all it could to meet the financial difficulties of the province, the *ad interim* annual contribution of over Rs. 1½ crores out of the jute export duty would be refused by the Government of India, pending the inauguration of the New Constitution, and that threat had its effect. However paradoxical it might seem, Sir, Sir John Woodhead in giving an evidence of the earnestness of Bengal to meet the difficulties of this province, actually abolished the 5 per cent. cut on the salaries of its officers amounting to Rs. 17½ lakhs and rushed this taxation measure through the Bengal Legislative Council—measures which were estimated to yield a revenue of Rs. 24½ lakhs only, while the deficit that year was Rs. 78½ lakhs, even deducting the grant of jute export duty of Rs. 158 lakhs. Since then a sea-change has come over the situation. The Meston Award has been revised, Sir Otto Niemeyer has given his report and section 140 (*2*) of the Government of India Act, 1935, has assured for us a substantial portion of the jute export duty and section 138(*1*) of the Government of India Act, 1935, has also made it mandatory that Bengal will get a portion of the income-tax. I ask in all seriousness where then is the ground now for continuance of this taxation measure. These taxation measures were meant to be temporary. They must be allowed to die their natural death. When Government is in deficit the cry is raised for further and further taxation, and when the Government is not in deficit, and we start with an opening balance of Rs. 1 crore and 16 lakhs and a closing balance of Rs. 1 crore and 91 lakhs, the same cry from the Treasury Bench is raised—"pay, pay, pay" and as a consequence we are now faced with the Bengal Expiring Laws Bill, 1938.

Sir, this reminds me of a couplet in Shakespeare's Julius Cæsar—O Reason, thou art fled to butish beasts, and men have lost their reason." Sir, of all illusions the most elusive is the one that is made to wear virtue's garb. It has been stated by the Hon'ble Finance Minister, Mr. Sarker, that these taxes are necessary for nation-building subjects. Sir, Lord Ronaldshay, while defending the taxation measures of his time, observed: "With regard to the allocation of the proceeds of the new taxes, to the meeting of our deficits it is purely a temporary expedient, pending further relief on receipt of which the new revenues raised will become available for schemes of educational, sanitary and medical progress." This was said sixteen years ago, in 1922, by no less a person than the then Governor of Bengal, now the Secretary of State for India. But those taxes were never allocated to nation-building subjects but General Administration swallowed them up. I shall give another instance. In the course of the last few years, the Government of India have contributed several lakhs of rupees to the Government of Bengal out of the Salt Import Duties. That contribution would be over twenty lakhs of rupees. It was then intended that a substantial portion of that amount would be spent for the development and growth of salt industry in Bengal, which means mass prosperity and industrial progress of the country. Not a pice was spent out of that even. I would therefore request the members of this House to think for a moment and not to be led away by the specious arguments of the Hon'ble Finance Minister who seems to be an adept in repeating the slogans of the bureaucrats. Sir, the Ministry has not given us any comprehensive programme whatsoever for the purpose of nation-building. What Bengal wants, as a matter of fact, is well-planned schemes for national regeneration with estimates of money that would be necessary to carry them out within a given number of years, say, five to ten years. When Bengal gets a Ministry which knows what should be done, and makes plans accordingly, she will know where and how to find that money, provided of course she is not unfortunate in having a Finance Minister who refuses to look beyond his nose but must confine himself within the four corners of his Account Books. Sir, no Finance Minister with a clear conscience can impose a tax on the people without at the same time lessening the burden on them by reducing expenditure. It might be that the expenditure reduced would bring the probable yield of these taxation measures. I am very sorry to say that during the last twelve months the expenditure has gone on increasing rapidly. There has been an increase of forty-seven lakhs of rupees in expenditure over that of last year—at least about twenty-six lakhs of rupees if we leave out of account the salary of the Ministers and that of the members of the Legislature and also the cost of administration of the Debt Settlement Board. Sir, new offices have been created with utter disregard to economy giving to each of them a salary, a quarter of which would be quite sufficient to keep their heads cool and three-fourths of which

would keep fifty peasant families in comfort for twelve months. Sir, the huge Secretariat staff which accommodates the I.C.S., is sitting like a nightmare on the breast of Bengal. Has the Ministry done anything for the purpose of doing away with the unnecessary posts of Divisional Commissioners, the Deputy Inspectors-General of Police with their establishment? Nothing has been done so far. Has the Ministry taken courage to correspond with the higher authorities for the purpose of reducing the cadre of the I.C.S.? Nothing has been done with respect to that. Has the Ministry done away with the Darjeeling exodus, or even cared to reduce the number from twelve to seven or eight? I say, Sir, the Ministry has not done anything of the sort, and has not cut its coat according to its cloth. Further, I should like to say that Bengal is unable to bear further taxation. The debtors won't pay their debts. The tenants cannot pay their dues to the landlords. As a matter of fact, discontent is prevailing in the *mufassil*, prices of staple crop—jute and paddy—have gone down considerably, causing a loss of crores of rupees to the peasants, and the condition of the peasants has reacted on the higher classes of people. The *bhadralogs* are the poorest of the poor. It is not a fact that these taxes will only affect the rich, it will affect the people in general. Sir, expenditure per head in Bombay is Rs. 8½, in Madras Rs. 4, and in Bengal Rs. 2½. Bengal can ill-afford to bear further taxation. The tax on electricity is a tax on progress. In the *mufassil* there are about a dozen of such companies which have grown up but most of them are working at a loss. There the rate per unit of consumption is between five and seven annas, and there a consumer has got to pay on a bill of Rs. 5-6½ annas more as electricity duty which means many consumers will revert to the use of kerosene oil lamps, the cost of which will not be more than Rs. 3-8 a month. Ninety-two per cent. of the consumers in this city have got to pay a surcharge of six pies for consumption of electricity over fifteen units a month. Now, Sir, even if it is admitted that thirty-two per cent. of them can afford to pay it, at least sixty per cent. who are ordinary shop-keepers can ill-afford to pay the same. Then, Sir, we have got to take into consideration another factor which has been recently decided by Government, that the citizens of Calcutta will have to bear a portion of the cost of the Calcutta Police. This charge of electricity, therefore, on the citizens of Calcutta will weigh very heavy on them. The spokesman of Government has said that it is the intention of Government to nationalise electricity and bring it to the door of every villager in Bengal. I say, Sir, the insistence on this tax is an index to their intention to the contrary.

. . . .

Sir, I would now refer to the Stamp Amendment Act. I will mention here some of the documents which have been affected by the Stamp Amendment Act. They are the Counterparts, Agreements,

Bills of Exchange and Sale, Appraisements of Valuation, Apprenticeship Deeds, Bonds, Certificates of Sale, Certified Copies to be obtained from courts, Counterparts of Leases, Letters of Licenses as well as Memorandum of Companies together with Deeds regarding Mortgage of Crops, Partition Deeds, Powers of Attorney, Releases, Settlement, etc.

The rates of stamp have increased from 25 per cent. to 75 per cent. All these taxes will surely affect the people in general.

Now, Sir, with respect to the Court Fees Amendment Act, it is a fact that it touches properties worth over Rs. 2½ lakhs. Sir, it will hit the rich. But with respect to this I must say that the number is so few, and the revenue that is expected so very uncertain, that no Finance Minister can possibly build upon it.

With respect to the Amusement Tax, it will surely affect the poor, because formerly a ticket of eight annas used to carry a tax of one anna. But now a poor man who purchases a ticket of three annas shall have to pay a surcharge of six pies. We must remember that two pice can purchase a loaf for the poor. I submit that these taxation measures are oppressive, vexatious and absolutely unjustifiable; and I have no hesitation in appealing to the members of this House to throw out these taxation measures.

Mr. BANKIM CHANDRA DATTA: Mr. President, Sir, apart from the question which has been raised in this House on the point of order, viz., whether it is within the jurisdiction of this Legislature to entertain a Bill which includes Bills which are *ultra vires* as also those which are partly *ultra vires* and partly *intra vires*, apart from that question which, I think, will ultimately depend on the ruling which you will be pleased to give, we on this side of the House oppose this Bill on a question of principle. Sir, it is this. These measures as has been suggested by my hon'ble friend Mr. Lalit Chandra Das were introduced only as temporary measures for the purpose of meeting the deficit in the budget, and I think everybody knows that Sir John Woodhead, one of the greatest financial experts, declared it openly that the whole object was to meet a particular difficulty for a particular period. He assured the Legislature that it was never meant to go beyond the period for which it was prescribed, namely, three years. What is the idea now? Although an assurance was given in that form, is it fair to the people of the country, would it be strictly honest on our part to suggest that although at the time of the introduction of these measures, the idea was to put them in operation for a limited period, now it would be made a permanent Act on the Statute Book? Sir, I feel that we should not at all entertain the idea of continuing these Bills for a day longer than what was necessary at that time. Sir, I shall not deal in deatil with the revenues that would be available if these various Acts are continued, but

I shall really take one Act, namely, the Electricity Duty Act, which gives, as far as my information goes, the largest amount of revenue. At the time when it was introduced, Sir, in 1935, the object was to secure a revenue of ten lakhs, but unfortunately it has in 1937 given us eighteen lakhs and out of these eighteen lakhs, Calcutta and suburbs give us fifteen lakhs and the *mofassil* three lakhs. I took the trouble of consulting the various tradesmen in Calcutta, the Trades Association as also the shopkeepers in general, and the figure which I have collected from them gives us this idea that retail tradesmen contribute over Rs. 2,52,000 and odd and they bear taxation of over Rs. 50,000. I will therefore suggest for the consideration of this House whether it would be advisable to accept a measure which taxes you to the extent of 20 per cent. They pay Rs. 2,52,000 and they also pay a duty of over Rs. 50,000. That is the position.

Sir, as regards the collection of these charges in Calcutta, it is all very well for the Calcutta Electric Supply Corporation which runs a huge establishment to collect this. It does not cost them very much, but for the propose of collecting these fifteen lakhs of rupees, they get, I think, a 10 per cent. establishment charge which comes to somewhere near Rs. 1,55,000. I am not sure whether they have to spend all these Rs. 1,55,000. They have got their own establishment, and I think they can manage with Rs. 55,000. The result is, they make a net profit of one lakh of rupees from this. Sir, it may be that if we press the matter, we can induce the Calcutta Electric Supply Corporation to give up this profit of one lakh in the interests of consumers: but in the case of these *mufassil* licensees, what is their position? They have to maintain a number of books; they have to submit a large and innumerable number of returns to the Government, and in this way they have to spend at least, I am told, over Rs. 50 a month; whereas they get only about Rs. 20 or so by way of establishment charges.

Now, Sir, as regards the position of finance, thanks to the industry of our Finance Minister, he has been able to give us a budget which gives us a handsome surplus. Where is the moral justification for continuing this Act at all, far less for attempting to give it a permanent place in the Statute Book? Sir, as I have already told you, it really tells upon the consumer. After all, it is the consumer that pays. It may be that there are some cases of exemption, but at the same time, if these taxes are removed, I am sure electricity will be made cheaper, and the people of the country, including the labourers, will be able to use this; and as my learned friend Mr. Humayun Kabir has stated, it has really become a necessity, and it will be one of the great amenities which our labourers will be entitled to if this tax is removed. Sir, then it is really an irony of fate that while the Government in its anxiety to help the people appointed a Commission for the

purpose of reducing the price of electrical energy, and in fact a recommendation was made, which the Calcutta Electric Supply Corporation accepted partially by reducing the charges by two pice—while by one hand the Government pretends to give us some relief, by another hand—and it is a longer hand—before it reaches the pocket, it is taken away by means of the imposition of this duty. The two pice which is given by the Calcutta Electric Supply Corporation is taken away by the Government in the shape of these taxes. Is that fair at all to us? In all seriousness I appeal to the House not to accept the Bill simply because the Hon'ble Finance Minister tells us that these monies will be utilized for the purpose of nation-building departments. Sir, these promises are made, but I leave it to you to judge how many times they are carried into practice. Sir, it is a taxation, as I have told you, which reaches not the rich alone, but the poorest of the poor, and from that view, Sir, I would request you to consider the matter and see that the Bill is thrown out.

Khan Sahib ABDUL HAMID CHOWDHURY: Sir, all taxation measures are as usual unpopular, and it is no wonder that the present Bill which is under the consideration of the House is not an exception to the general rule. But, however, we may dislike taxation measures, we cannot always avoid them. Sometimes we feel compelled to accord our welcome to this necessary evil. Our predecessors in this Legislature introduced these taxation measures in 1935, after due consideration. The special feature of these measures is that it does not affect the really poor and the operation of these Bills is practically confined within urban area. This does not affect the country side. Sir, with the inauguration of the Provincial Autonomy, the whole system of administration has undergone revolutionary change. The cost of administration has been increasing by leaps and bounds as is natural with the democratic form of Government; unlike the pre-Reform days, expansion of the nation-building departments has become the crying necessity of the day. Now the Hon'ble Finance Minister cannot rest satisfied with making provision only for administrative costs, but he has to devote his attention to rural reconstruction as well. The Government Fund is not elastic enough to keep pace with the ever increasing demands and if we want to have coat suitable to our size, we must have to provide for sufficient quantity of cloth. It is no use raising an outcry against the taxation, which I may characterize as the most innocent one. If any taxation measure is to be accepted, I think this is the most innocent in the way that it does not touch the pockets of the poor. It does not affect the country-side. With these few words, Sir, I lend my whole-hearted support to the motion of the Hon'ble Finance Minister.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, I am very glad that Mr. Das representing the Opposition, has played his part very well. I did not expect anything from him but opposition. His

arguments are as usual that, whatever the Government will do, they must certainly be opposed and that it must be cried down. This very Mr. Das, during the time of the budget discussion, requested me to take courage in both hands and to have a loan programme of fifty crores of rupees. He wanted me to distribute ten crores this year, ten crores next year, and so on and so forth. Of course, Sir, he was very careful not to ask me to increase taxation. He advised me to raise these loans from the open market; and on refusal there, to go to the Government of India, and the Government of India wanting an explanation from us as to how to repay these loans, to say that we would not be able to pay. Of course, Sir, working up to that standard, certainly without any taxation; this Government can be run. But I only want to say that the great organization by virtue of which he is present here in this House and by virtue of which his compeers in other provinces are running the Government, is welcoming taxation.

The very Electrictiy Act, not only has it been passed as it is by the Bombay Legislature, but they have increased in some cases the Electricity Duties. Then, Sir, he said that my assurance of devoting the proceeds of this taxation to nation-building departments could not be relied upon, because Lord Ronaldshay's promises have not been worked up to. Really that is the mentality prevailing in these people, in spite of the loud professions that we are Indians and that more reliance should be placed on the words of the representatives of the people (namely, the Ministers) and not upon those of the bureaucrats. The difference is this, that Lord Ronaldshay cannot be removed by the vote of the Legislature. Whatever he did, he did according to his own option, but these Ministers, if they do not abide by their words once given, can be removed by the vote of the Legislature. Then my friend Mr. Bankim Chandra Datta quoted the greatest authority on Finance, Sir John Woodhead. I do not deny that he was one of the greatest authorities on financial subjects, but he is utilising Sir John Woodhead's words only to thwart these taxation measures. He will not agree with me if I quote the same Sir John's opinion that he has congratulated me for my introducing the Bills for the continuance of these taxes. And he has stated that without more taxes the popular Ministers cannot do any nation-building work.

Mr. BANKIM CHANDRA DATTA: That is within your special knowledge.

The Hon'ble Mr. NALINI RANJAN SARKER: If you will kindly come to my room, I will show you the letter.

Mr. RANAJIT PAL CHOUDHURY: Place it on the table of this House.

The Hon'ble Mr. NALINI RANJAN SARKER: Then they said that I have no moral justification for continuing these taxes, and the

argument put forward by them only shows that they have not got the knowledge of even the A, B, C of finance. They say, Sir, that everything can be done because we have got a surplus budget. What is the surplus budget? The surplus is a non-recurring surplus. We have got out of the last year's revenue collection some money, and if you want to have primary education compulsory, if you want to establish medical centres in every village, if you want to establish more industries, if you want to increase the economic resources of the cultivators, you cannot do so by non-recurring expenditure. You will have to increase the recurring expenditure, and for the increased recurring expenditure, you want year to year large sums of money and for that purpose these taxations are necessary. I sympathise with Mr. Datta, because he was not speaking here as a member of the Congress but on behalf of the Calcutta citizens and the citizens of Howrah to which he belongs. The Congress will never go to the Trade Associations of Calcutta to collect figures.

Mr. BANKIM CHANDRA DATTA: I said "trades-people." That is what I said and not "Trade Associations".

The Hon'ble Mr. NALINI RANJAN SARKER: The Congress will never go to Trade Associations to get figures and to argue our taxation measures. That is what I heard. If it is "trades people" I am bound to accept it.

Considering from every point of view the necessities of the province, these taxation measures are necessary and they will not directly affect the poor people. So far as electricity is concerned, as you know, certain quantities of electricity are not under the control of this Act. The Court Fees Act only affects the bigger people who have got large estates. So I implore the House not to throw down these taxation measures as they are in the interests of this province.

Mr. PRESIDENT: The question before the House is that the Bengal Expiring Laws Bill be taken into consideration.

The House divided :—

AYES—31.

Ahamad, Mr. Naziruddin.
Ahmed, Mr. Mesbahuddin.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Chowdhury, Mr. Humayun Reza.
Chowdhury, Mr. Rezzaqui Haider.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Ellahi, Khan Bahadur S. Fazal.
Esmail, Khwaja Muhammad.
Hamida Momin, Begum.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Hossain, Mr. Mohamed.
Ibrahim, Khan Bahadur Maulvi Mohammad.
Khan, Maulana Muhammad Akram.
Lamb, Mr. T.
McFarlane, Mr. J.
Molla, Khan Sahib Subidali.
Rahman, Khan Bahadur Ataur.
Rahman, Mr. Mukhlesur.
Rashid, Kahn Bahadur Kazi Abdur.
Ray, Mr. Nagendra Narayan.
Roy Chowdhury, Mr. Krishna Chandra.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Satleswar.
Stokes, Mr. H. G.
Wilmer, Mr. D. H.

NOES—10.

Chakraverti, Mr. Shrish Chandra.	Maitra, Rai Sahadur Brojendra Mahan.
Das, Mr. Lalit Chandra.	Mookerjee, Mr. Naresh Nath.
Datta, Mr. Bankim Chandra.	Pal Choudhury, Mr. Ranajit.
Datta, Mr. Narendra Chandra.	Poddar, Mr. H. P.
Goswami, Mr. Kanai Lal.	Sanyal, Mr. Sachindra Narayan.

The motion was carried.

Mr. BANKIM CHANDRA DATTA: On a point of order, Sir. Yesterday the House decided that the consideration of the Bill could not be proceeded with without your ruling——

Mr. PRESIDENT: I am dealing with that question.

As regards the point of order raised on the question whether the House is entitled to amend the sections of the original Acts mentioned in the schedules to the Bill, I am to invite the attention of the hon'ble members to May's Parliamentary Practice at page 406 where it is stated—

> "An amendment to exclude from continuance by the Bill, distinct provisions of such Acts is in order".

I find also a similar point of order raised in the House of Commons and the decision of the Chairman is found in Hansard's Debates at page 1018, Volume 221. On a similar question being raised in the Committee of the House, the Chairman held: "It was quite open to the Comimttee to say whether they intended to continue any Act, and how much of it"; and the same procedure was followed in a similar case reported in the Parliamentary Debate, Volume 167, page 484; there I find an amendment was ordered by the President to be in order. The amendment proposed was: "In page 4, line 9, after the words 'the whole Act' to insert the words 'except section 3 thereof'."

So it is clear that unlike an amending Bill where each and every section of the proposed Bill is subject to amendment, in a continuance Bill, amendments to particular sections by additions and alterations to particular sections will not be allowed. But the House will be perfectly in order to move amendments omitting a particular section.

Mr. NAZIRUDDIN AHMAD: May I submit that we may now renew the discussion as to the legality of the Bills——

Mr. PRESIDENT: Gradually, as the points arise. I propose to take up the schedules first.

Mr. NARESH NATH MOOKERJEE: On a point of information, Sir. As a result of your ruling, are we to take it that we can put in amendment excluding sections of the Bill entirely?

Mr. PRESIDENT: Yes, the members will be perfectly in order to omit any of the Acts that are mentioned in the schedule; not only that, they can further give notice of amendments omitting particular sections of those Acts, but they cannot move any amendment altering or adding to the sections. It is not an Amending Bill.

Mr. NARESH NATH MOOKERJEE: In that case are we not entitled to get a little time to put in amendments?

Mr. HAMIDUL HUQ CHOWDHURY: You said that the House could reduce certain amount and supposing a section provides that amount, are we to understand that that part of the section will be amended?

Mr. PRESIDENT: I have revised my opinion, on going through the Parliamentary Practice I hold that an Expiring Bill is not like an Amending Bill. All of the sections will not be subject to amendment.

Mr. HAMIDUL HUQ CHOWDHURY: Every section of the Expiring Bill will not be placed before the House, but the Expiring Bills are ordinarily referred to the Standing Committee of Ways and Means. The Standing Committee of Ways and Means deal with every item; with regard to the amount, they can recommend reduction. But supposing there is a section which provides for a certain amount of tax——

Mr. PRESIDENT: I think the Deputy President is not correct. It goes to the Committee of the whole House. There only omission of particular sections is allowed but no amendments. Therefore I cited the practice of the House of Commons—that procedure is followed uniformly. It is not like an amending Bill where each section of the Bill is before the House.

Mr. BANKIM CHANDRA DATTA: In view of the ruling just given by you, we feel that some time ought to be given for the purpose of moving short-notice amendments.

The Hon'ble Khwaja Sir NAZIMUDDIN: As far as that point is concerned, it is in your discretion: you can accept short-notice amendments on the floor of this House.

Mr. PRESIDENT: I shall consider the point when a particular amendment is moved. I should not give any general ruling on that point.

Mr. HAMIDUL HUQ CHOWDHURY: In dealing with this kind of Bills, you have referred to the procedure followed in the

House of Commons, where such Bills are for making annual provision only. But here we are making the Acts permanent: that is the difference from which these Bills will have to be viewed; so that precedent should not guide us.

Mr. PRESIDENT: When once the ruling is given, it is final and not subjected to any argument. Further, I may tell the Deputy President that the quotations that I have made from the House of Commons are all in regard to expiring laws continuance Bills.

The question before the House now is that the Schedule stand part of the Bill.

I propose to place each item of the Schedule separately. The first item is the Bengal Electricity Duty Act, 1935. Mr. Humayun Kabir raised a point of order contending that the passing of the Bengal Electricity Bill is not within the competence of this Legislature. Now, I would like to hear what the Hon'ble Finance Minister has to say on the point.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, so far as the point of order raised by Mr. Humayun Kabir is concerned, his suggestion is that we have not got the power to legislate for the continuance of the Electricity Duty, because it is in the nature of an excise duty and falls within item 45 of the Federal Legislative List. I think, Sir, that point does not arise because under sub-section (2) of section 143 read with paragraph 3 of the India and Burma (Transitory Provisions) Order of 1937, Provincial Government have got power even for items in the Federal Legislative List to legislate, which will be effective up to the date of 31st March, 1939, unless in the meantime the Government of India steps in and pass their own legislation (even if it is conceded that it comes under the excise duty). My submission to you is that the Electricity Duty Act does not come under excise duty. This matter was discussed in the Finance Ministers' Conference and we did not agree that Electricity Duty belonged to the Central Government.

Mr. PRESIDENT: It would be better if the Hon'ble Minister deal with the first point and complete that point. Your argument is that even conceding that it is an excise duty, under section 143(2) read with paragraph 3 of the India and Burma (Transitory Provisions) Order, 1937, this Legislature is empowered to legislate which will have effect up to the 31st March, 1939.

The Hon'ble Mr. NALINI RANJAN SARKER: Yes, Sir, and our contention is that it is not an excise duty.

Mr. PRESIDENT: Let us finish the first point. If the Hon'ble Minister will see sub-section (2) of paragraph 3 of the India and Burma

(Transitory Provisions) Order, 1937, he will find that there is a definite limit in this paragraph that the continuance of any taxation beyond the time for which it would continue if the India Act has not been passed, is specifically barred.

The Hon'ble Mr. NALINI RANJAN SARKER: My interpretation of that sub-section is that if we do not legislate and the Bills expire in the meantime, we have no power by virtue of this section alone to go up to the end of two years.

Mr. PRESIDENT: Nothing in this paragraph shall continue any taxation beyond the time for which it would continue if Government of India Act had not been passed.

The Hon'ble Mr. NALINI RANJAN SARKER: If this Act would expire on the 31st May, we would have no power merely by virtue of paragraph 3 to say that we can levy this tax up to the end of two years.

Mr. PRESIDENT: The meaning of section 143(2) is that those statutes that were in existence on the 1st January, 1935, will have force until they are interfered with by legislation in the Federal Legislature. Provision (3) of this Order extends that right to a period of two years for those legislations that were passed during the interim period, that is from 1st January, 1935, to 1st April, 1937. Then the proviso says that this extension for a period of two years will not apply to those cases where the Act itself provides a time-limit that "nothing in this shall continue any taxation beyond the time for which it would continue." Here in the Expiring Act the period is for three years, that is up to the end of June, 1938.

The Hon'ble Mr. NALINI RANJAN SARKER: My submission is that without extending this by legislation, we cannot claim that by virtue of paragraph 3, we can without any enactment go up to the end of that year.

Mr. PRESIDENT: Under the provisions of the Act you can certainly levy this duty till the 30th June, 1938, which is the limit in the Act itself. Had there been no limit in the Act, taxes could be levied till the 1st of April, 1939, as provided in the Order-in-Council for a period of two years, even though the tax is considered as duty on excise and is on the exclusively Federal List. The implication of paragraph 2 of the Order-in-Council is that if there is a time-limit, that must prevail.

The Hon'ble Mr. NALINI RANJAN SARKER: If there were not No. 2, then automatically we would have got two years, though our

Acts would expire in the meantime; but No. 2 makes it obligatory on us, so that by legislation we can take it up to 1939. That is my submission with regard to paragraph 3.

Mr. PRESIDENT: What it means is this: that under section 143 (2) of the Government of India Act, 1935, all legislation that were extant on the 1st of January will be considered to be in force for the purposes of levy and collection of taxes until the Federal Legislature intervened; the Order-in-Council provide a life for two years for all the enactments that were passed in the interim period between the passing of the Government of India Act, 1935, and the commencement of Part III of the said Act. Paragraph 2 of the said Order-in-Council further makes it clear that no extension is meant for any legislation which expires in the meantime. It says, "shall not continue any taxation beyond the time for which it would continue if the Government of India Act had not been passed". Suppose there was no Government of India Act passed——

The Hon'ble Mr. NALINI RANJAN SARKER: They have provided for in the paragraph that for two years from the commencement of Part III, they will be able to levy this tax, but if in the meantime they have discontinued without fresh Bill, they will not be, by virtue of this section, able to continue this.

Mr. HAMIDUL HUQ CHOWDHURY: I think Mr. Sarker is right. In 1935 the provision of section 143 contemplated that it would immediately come into force. There in clause (2) is the word "1935" when it came into force in 1937. Therefore section 143 (2) provides that all laws which were in existence before the 1st January, 1935, will continue to have force till they are taken away by some other enactments of the Federal Legislature.

Mr. PRESIDENT: Whether the Federal Legislature take it away or not, the law is clear. It will have force for two years only.

Mr. HAMIDUL HUQ CHOWDHURY: I will say that it is a wrong interpretation.

Mr. PRESIDENT: Every member has the right to interpret, which also includes the right of misinterpretation.

The Hon'ble Mr. H. S. SUHRAWARDY: Until you give your ruling, Sir.

Mr. HAMIDUL HUQ CHOWDHURY: I submit, Sir, that that was not your decision but interpretation.

The Council have to rectify that and say that Acts, which have been enacted since the 1st January, 1935, up to 1st of April, 1937, will have, every force given by section 143(2) and therefore it will read as follows: It specifically says:—

"It authorises the continuance until provision to the contrary is made by the Federal Legislature, of certain provincial taxes falling within the Federal List and shall have effect as if the reference to the 1st of January, 1935, were a reference to the commencement of Part III of the Act".

Therefore in section 143 for the word "1935" we will have to read "commencement of Part III." Now there may be misinterpretation on account of the introduction of the words two years. Clause 2 says that it shall not be interrupted even if the Act expires by its own effect before two years from the 1st January, 1935. Still it will be continued for another three years by the operation of clause 3. Paragraph (2) says "nothing in this paragraph shall continue" but it does not say anything in the Act. Only on account of some words being added, some provision has been made in clause 3 which might be interpreted to extend it beyond the time for which it will continue, supposing the Act provides that it will expire before Part III comes into operation. Therefore what sub-clause (2) says, is that if the Act comes into operation before two years, it shall not on account of clause 3 extend for the full period of two years. Therefore I submit that clause 3 only extends the period from 1st January, 1935, to 1st January, 1937, and beyond that it does not touch anything. Any Act which comes into operation before April, 1937, will have its force by its own operation, subject to its own limitation, till certain other Acts are passed.

The Hon'ble Mr. H. S. SUHRAWARDY: I will not refer to the action taken by other provinces in this connection except in so far as to explain some remarks which I desire to make on the practicability of putting this legislation. No doubt you are aware that in Bombay they have——

Mr. PRESIDENT: Order, order. The Chair is now considering a very narrow issue and not a general question. I should like to ascertain what is the effect of this Order-in-Council (section 3).

The Hon'ble Mr. H. S. SUHRAWARDY: I was only putting the practical point of view.

Mr. PRESIDENT: I shall consider that point later. I wish to hear what you have got to say on the technical point.

The Hon'ble Mr. H. S. SUHRAWARDY: As regards the technical point, it is not necessary for me to dilate on the point raised by the Hon'ble Mr. Nalini Ranjan Sarker.

Mr. NAZIRUDDIN AHMAD: Sir, I submit that we should interpret paragraph 3 of the India and Burma (Transitory Provisions) Order, 1937, and the two sub-paragraphs of it so as to reconcile each with the other. It is easy to hold that there is no repugnancy between sub-paragraph 1 and sub-paragraph 2 and that they do not destroy each other. If we hold that the rights which have been generously conferred by sub-paragraph 1 have been completely taken away by sub-paragraph 2, then they would be entirely redundant, and there would have been no need for the making and promulgating paragraph 3 in the King-Emperor's name. Such an interpretation would render the entire paragraph insignificant and such an interpretation is not permissible on the principles governing interpretation of statutes. I submit, therefore, that sub-paragraph 2 does not take away what has been given by sub-paragraph 1. What seems to be the true position is this, that a taxation measure which expired before the Government of India Act came into force, that is, if it was dead before the first day of April, 1937, cannot be made alive by virtue of paragraph 3. This, I submit, is the correct interpretation of paragraph 3. If sub-paragraph 1 of section 3 is applied so long as the expiring Act is in its death-bed but has not yet expired, then sub-paragraph 2 does not touch it. This is the case here and sub-paragraph 2 does not come into operation at all. An attempt should obviously be made to reconcile these two sub-paragraphs, and if we do it, then I submit, the supposed illegality would vanish and the interpretation of the Hon'ble Finance Minister should be upheld.

Mr. HUMAYUN KABIR: Sir, I would submit that the interpretation which the Hon'ble Finance Minister has tried to give and which Mr. Hamidul Huq Chowdhury has supported, is not valid on the following grounds. In the first sub-paragraph under paragraph 3 it is provided that for a period of two years the reference to the 1st of January, 1935, shall be read as if it were a reference to the date of commencement of the Part III of the Government of India Act, 1935. The result of that is that for a period of two years from the 1st April, 1937, that is up to the 1st April, 1939, in cases of legislation undertaken by a Provincial Legislature in subjects which belong to the Federal List, it shall nevertheless have the power to continue them till the Federal Legislature decides to the contrary. But nevertheless this sub-paragraph 2 makes it quite clear that if there is any such Bill which comes automatically to an end, this saving provision is not to apply to that. Therefore there is a clear distinction between the two cases—one is that if a Federal subject is legislated upon by a Provincial Legislature, that legislation will continue till the Federal Legislature decides to legislate upon it again and this provision is there for a period of two years in terms of section 143 (*2*) read with the sub-paragraph under paragraph 3. But at the same time it makes a clear exception

in the cases of those Acts which come automatically to an end. I submit that the Act we are considering automatically comes to an end. It is clearly pointed out in that paragraph "provided that nothing in this paragraph shall continue any taxation beyond the time for which it would have continued if the India Act had not been passed." If the India Act had not been passed, then the Electricity Duty Act would have automatically come to an end on the 31st May this year, and therefore there is nothing either in this paragraph or in sub-section (*2*) of section 143 of the Government of India Act, which in any way continues this particular Act. That would apply only to such cases where such legislation might be undertaken and it was covered by section 143 (*2*). Therefore it does not exactly apply.

Mr. HAMIDUL HUQ CHOWDHURY: Then the meaning of the word "levied" becomes difficult to understand.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, at this stage, I think it is interesting to consider whether, in the event of any order of the Secretary of State being found to produce conflicting elements with respect to any provision of the Act, that order could be relied upon or we should act upon that order in contravention of any provision of the Act.

Mr. PRESIDENT: That contingency has not yet arisen.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I think, Sir, too much reliance is placed on the order of the Secretary of State. My mind is not absolutely clear on this point, but I want your guidance. Even in the case of the Instruments of Instructions issued by His Majesty, it is specifically laid down that if it produces any conflicting elements with respect to any provision of the Act, the Instrument of Instructions will not be affective to that extent.

Mr. PRESIDENT: So far as the point raised by the Maharaja of Santosh is concerned, I think a reply is provided by the Statute itself, namely, in sections 309 and 310 of the Government of India Act, 1935, there is provision for these Orders-in-Council. They are to be taken not merely as Orders-in-Council but as authorised by the Statute itself. As regards the point made by Mr. Humayun Kabir, have I understood him correctly that it is his contention that section 143 of the Government of India Act, 1935, provides for those legislations that were in existence on the 1st of January, 1935, to continue, until the Federal Legislature took up legislation on those matters, although the tax belonged to the Federal List. Then this Order-in-Council came in, when it was found that the whole of the Government of India Act, 1935, was not coming into force at once, but a part of it only, dealing

with the provinces, was brought into operation from the 1st April, 1937; this Order-in-Council provided for Laws passed in the interim period and for them a life of two years is given. As regards the older laws, they were still governed by section 143 (2) of the Government of India Act. For the interim period after the passing of the Government of India Act, 1935, and before any part of the said Act came into force, provision was made for the period of two years. Then paragraph 2 of the Order-in-Council makes it clear that this period of two years will apply to cases where the life of the Act is for a longer period, but if there is a limited time fixed for the Act and if it expires before the 1st April, 1939, then the time-limit will not be extended. Nothing in this paragraph shall continue any taxation beyond the time for which it would have continued if the India Act had not been passed. Supposing that the Government of India Act had not been passed and there was no exclusively federal or provincial subject, even then an Act like this, namely, the Electricity Duty Act, would have no force beyond the 30th June, 1938.

The Hon'ble Mr. NALINI RANJAN SARKER: If it was not enacted by this Legislature and if the India Act was not passed, then we should have been perfectly within our rights to pass legislation on electricity—it would have been within our competence to do these things up to 1939.

The Hon'ble Mr. H. S. SUHRAWARDY: We should read with it—"shall continue to legislate merely by virtue of this section"; but it does not mean that there cannot be any legislation on the subject thereafter.

The Hon'ble Mr. NALINI RANJAN SARKER: Or in the meantime.

Mr. PRESIDENT: Will the Hon'ble Finance Minister point out where he gets the right to legislate that he claims?

The Hon'ble Mr. NALINI RANJAN SARKER: From the expression "for a period of two years from the commencement of the Government of India Act".

Mr. PRESIDENT: That refers to the levying of taxes. How do you derive the right of legislation? It must be provided in the Statute!

The Hon'ble Mr. NALINI RANJAN SARKER: In the expression "nothing in this paragraph shall continue automatically up to two years" unless and until we pass legislation——

Mr. PRESIDENT: Where do you get it?

The Hon'ble Mr. NALINI RANJAN SARKER: The words "any legislation beyond the time for which the Act would have continued if the Government of India Act had not been passed" are my warrant. If the Government of India Act had not been passed, then we should have continued this Act up to a certain limit by passing legislation here. If the intention had been to convey the opposite idea, there would have been a different language here.

Mr. PRESIDENT: You have been permitted to levy taxation up till that period; but where is the right claimed to pass a legislation after the fixed period?

The Hon'ble Mr. NALINI RANJAN SARKER: You cannot levy taxation without legislation, so at the end of two years we are competent to pass a legislation to continue the taxation.

The Hon'ble Mr. H. S. SUHRAWARDY: May I take it that the words "continue to be levied" mean automatic continuance?

Mr. PRESIDENT: You argue that by the terms "continue to be levied" the right to legislate is also included. Then, as regards the other point, namely, whether the duty on electricity is an excise duty, I should like to hear what the Hon'ble Finance Minister has got to say.

Mr. NARENDRA CHANDRA DATTA: That it is an excise duty has been admitted by the Finance Minister.

The Hon'ble Mr. NALINI RANJAN SARKER: My friend Mr. Narendra Chandra Datta, says that it has been admitted by the Finance Minister. But I never did so.

Mr. PRESIDENT: I agree with the Finance Minister that he has conceded that point. It will be better if the Finance Minister will tell us under what particular item of Schedule seven, List II, this duty on electricity falls.

The Hon'ble Mr. NALINI RANJAN SARKER: It will come under "sales of goods tax," and my information is that in Bombay they have brought it under luxury.

Mr. PRESIDENT: Does the Hon'ble Finance Minister consider electricity as an item of luxury?

The Hon'ble Mr. NALINI RANJAN SARKER: I do not admit that it is an excise duty, and I never said that it is a luxury. It is a duty which may be classed as a tax on the sale of goods and not as a tax on luxury. We shall fight it out in the Federal Court if the Central Government challenge us.

Mr. PRESIDENT: How does it come under the sales of goods? Referring to the Electricity Act, it will be found that in section 5, sub-section (*4*), persons who generate electricity for their own use are also liable to taxation.

The Hon'ble Mr. NALINI RANJAN SARKER: But my point is that the excise duty has not been authoritatively defined in any of the statutes up till now.

Mr. PRESIDENT: I would ask the Hon'ble Finance Minister to justify how he can consider the duty on electricity as a duty on the sale of goods. But if he can prove to my satisfaction that it comes under the sale of goods, that will be enough. The main contention of Mr. Humayun Kabir was that even where there was no sale under section 5(*iv*), a person generating electricity is liable to taxation. In that particular case at least, no question of sale arises.

As the time is up to-day and we have already sat for five minutes more than our allotted period, it is better that the House should adjourn now and resume discussion to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Wednesday, the 23rd March, 1938.

Members Absent:

The following members were absent from the meeting held on the 22nd March, 1938:—

(1) Banerjee, Rai Bahadur Keshab Chandra.
(2) Dutta, Mr. Kamini Kumar.
(3) Haider, Nawabzada Kamruddin.
(4) Huq, Mr. Syed Muhammad Ghaziul.
(5) Jan, Khan Bahadur Shaikh Muhammad.
(6) Karim, Khan Bahadur M. Abdul.
(7) Khan, Khan Bahadur Muhammad Asaf
(8) Mookerji, Dr. Radha Kumud.
(9) Mukherji, Rai Bahadur Satis Chandra.
(10) Ormond, Mr. E. C.
(11) Sinha, Rai Bahadur Surendra Narayan.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 23rd March, 1938, at 2-15 p.m., being the twenty-third day of the First Session, pursuant to section 62(2)(*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

GOVERNMENT BILL.

The Bengal Expiring Laws Bill, 1938.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, yesterday we were discussing the point of order raised by Mr. Humayun Kabir and we were discussing whether the electricity duty is an excise duty. As I said yesterday, we do not admit that it is an excise duty——

Mr. LALIT CHANDRA DAS: Kindly give us the definition of excise duty.

The Hon'ble Mr. NALINI RANJAN SARKER: I am not competent to define what excise duty is. I do not know if any Indian code has yet defined what exactly excise duty is and what it is not.

Mr. PRESIDENT: We were particularly discussing the point whether the electricity duty is a duty on the sale of goods, and I wanted to know how you would reconcile section 4 (*5*) of the Electricity Duty Act.

The Hon'ble Mr. NALINI RANJAN SARKER: Yes, Sir, I am coming to that. So far as I have been able to know about the Central excises, I find that excise duty is levied on production and not on consumption. Sir, the Central excises are at present levied on motor spirit, kerosene, silver, sugar, matches, iron and steel. In all these cases, excise duty is imposed on the whole of production irrespective of sale. Sir, I crave your indulgence in quoting some of the sections of the Central excises. So far as motor spirit is concerned, the provision of the Act is this: There shall be levied and collected taxes

at every manufactory in British India on all motor spirit produced in such a manufactory at such and such rates. So far as silver is concerned, a duty at such and such rate, shall be collected on all silver produced at such works and issued out of their premises. A duty shall be levied on sugar produced in any factory and either issued out of such factory or used within such factory and shall be payable by the owner of the factory. In the case of matches, an excise duty at the rate specified shall be levied on all matches manufactured at every manufactory and issued out of such manufactory. From this it will be found that wherever an excise duty has been imposed by the Central Government, it has been imposed on the production. But, Sir, even under section 5 we do not impose taxes on all production. We impose them only on consumption, and that also after the electrical energies have been consumed in lights and fans——

Mr. PRESIDENT: But my point was quite different, namely, how you can call it a duty on the sale of goods when there is no sale as in section 5 (*4*).

The Hon'ble Mr. NALINI RANJAN SARKER: I quite appreciate that. My ground is not so strong on that particular point.

Mr. PRESIDENT: I want you to justify if in any way you can bring it under any of the items in Lists 2 or 3, as it will then serve your purpose. You need not refute the other argument that it comes under List 1. So I would like you to show that this Act comes under any of the items in Lists 2 and 3 or that it comes under the sale of goods. If you can prove it, that will be sufficient.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, my position is not so strong under section 5, as it is under any other section of the Act. As I have already said, so far as the other sections of the Act are concerned, it comes under the sale of goods. I can only prove in an indirect way, so far as section 5 is concerned, that it is not an excise duty, it cannot come under sale of goods, and in that doubtful case it may be called a luxury. It may be said that it is not a luxury, but I say that fans and lights may be considered to be a luxury as in Bombay. That is a debatable point. What I want to place before you is the principle that we should not levy taxes in such a way as to restrict the activities and power of levying taxes of the Central Government——

Mr. PRESIDENT: It will be enough for you to show that it is within your power and you can do so by showing that it comes under any of the items in Lists 2 or 3. You need not refute the other arguments.

The Hon'ble Mr. NALINI RANJAN SARKER: My point is that it comes under the sale of goods, but where it does not, it comes under luxury.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, in connection with the question whether it is a luxury, my friends on the other side have created a certain amount of confusion. To my luxurious friends on the other side, electricity may not be a luxury and may be a necessity, but to the vast majority of the people of Bengal, who do not know what electricity is, electricity is purely and simply a luxury and does not come within the purview of necessity. May I say a few words on the general proposition? If you will be pleased to see the proviso to the first clause, you will see there that the duty is not paid until it has been collected by the licensee. Duty is not paid on the units of electricity sold, but it is payable to Government only after it has been collected by the licensee. Therefore you will see, Sir, that this cannot be in the nature of an excise at all, because it is not something which is payable merely on production. After production there must be collection of the duty by the licensee before it can be payable to Government. Now, Sir, on the general proposition——

Mr. PRESIDENT: Order, order. Mr. Suhrawardy knows quite well that on a point of order, the President is not bound to hear anybody. Of course the Chair always desires to hear. To solve the difficulty that I am feeling at present, I asked the Finance Minister, and I now ask Mr. Suhrawardy if they can enlighten me as to how it comes under sale of goods or articles of luxury.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, may I say one word more before I sit down? There is no doubt, Sir, that these matters are rather debatable and doubtful as to whether they are hit by the Government of India Act, 1935, read with the India and Burma (Transitory Provisions) Orders, 1937, or whether they are excise, or luxury, or sale of goods—these matters are open to different interpretations and are rather doubtful. May I, Sir, hope that you in your interpretation of these doubtful matters, will extend rather than curtail the power and privileges of the House over which you preside? Because, after all, Sir, this will be a matter as between this House and the Federal Legislature at some time or other. I rather think that it would enhance, if I may so put it, the power and prestige and influence of this House, if this House so rules that the House has the power to pass this legislation. I know my learned friends do not even care for the power and prestige of this House so long as they can defeat the Government; but so far as we are concerned, we are very anxious to uphold the dignity and power of this House, and we do hope that keeping this in mind, you will be pleased to rule that the House has got the right to pass these measures.

Mr. NAZIRUDDIN AHMAD: The question, Sir, really depends on the interpretation of Lists II and III as you have already pointed out. It is not really to the point that the subject is not included in List 1, because we are concerned with seeing that the matter really comes within List II or III. But in discussing the applicability of Lists II and III it will be necessary for that purpose only to go into the question of List I also as I shall presently show. List I allows "excise duty on goods." List II allows "duty on sale of goods". I would try to show that these two taxes are complementary. One excludes the other, and taken together, they exhaust all possible taxes relating goods, including the duty on electricity. They are thus interrelated. It would therefore be my purpose to show, first of all, that it is not "excise on goods", and then I would show that it is a tax on the "sale of goods".

With regard to "excise", if I remember aright, Mr. Humayun Kabir gave a quotation from probably the New Standard Dictionary——

Mr. HUMAYUN KABIR: New English Dictionary.

Mr. NAZIRUDDIN AHMAD: The New English Dictionary—I stand corrected—and the definition as I gathered from him was that *excise* is "any toll or tax on home goods *before consumption* to home consumers."

Mr. HUMAYUN KABIR: No, that has not been correctly taken down.

Mr. NAZIRUDDIN AHMAD: I heard the words "before consumption". If my friend Mr. Humayun Kabir would give up that position, I have other things to stand upon, and I need not rely on his generosity in this matter at all, though his definition would have supported my argument. Anyway, this is the definition, I understood my friend to give to the House. That is from the "New English Dictionary", —I believe it is an American Dictionary—but we have got——

Mr. HUMAYUN KABIR: New English Dictionary is the standard work on the subject.

Mr. NAZIRUDDIN AHMAD: Undoubtedly not. The standard work on the subject is the Oxford English Dictionary. It is the last Court of Appeal in matters relating to accurate meanings of words and is the only dictionary quoted in the law courts as the standard authority. The Oxford English Dictionary defines "excise" thus: "A duty charged on home goods either in the process of their manufacture or before their sale to the home consumers." The Oxford

English Dictionary has taken this meaning from the Encyclopædia Britannica—another work of the highest authority on matters of general knowledge. The essential element in "excise" is that it is collected or levied "*during manufacture*" or at any rate "*before consumption*". This is the crux of the matter with regard to excise.

I do not think that "excise" is the word at all applicable here, because it is *after* consumption that the duty is levied and collected. The sections of the Bengal Electricity Duty Act, 1935, make it clear that the consumption is measured by meters, and thereafter it is levied at the end of the month. The Act levies the duty on this footing. So the electricity tax does not come within the meaning of "excise".

Now, Sir, with regard to the real question at issue as to whether it is a "tax on sale of goods", I submit that I shall have to go into the history of the word "goods" in this connection through the process of legislation of the Government of India Act, 1935. First of all I would draw your attention to the White Paper proposals where the thing really started. It is in List II, of Appendix VI, item No. 67—it corresponds to the present Provincial List. It says: "The raising of provincial revenue from sources and by forms of taxation specified in the Annexure appended to this List and not otherwise provided for in these Lists." This was a residuary clause, and there is reference to an Annexure. The Annexure attached to it—item No. 10—prescribes like this—I eliminate from this reading things which are not necessary for the purpose of the present discussion: "Taxes on consumption not otherwise provided for, such as cesses on entry of goods into a local area, taxes on the sale of commodities and on turnover." These words, I submit, are wide enough to cover electricity. These proposals came up before the Joint Select Committee, and in their Report they made slight changes, I submit, mere verbal changes, without intending any change in substance. At the Joint Select Committee Report, Volume I, page 157, has been reinserted the List—which corresponds to List II of the Act—with certain verbal modifications. There at page 157 it describes the matter thus: "The imposition of fees, taxes, cesses or duties in connection with the subjects in this List and of taxation in any of the forms specified in the Annexure hereto." The Annexure stands thus: "Taxes on consumption;"—not articles or goods, etc.—"cesses on the entry of goods into a local area; taxes on the sale of commodities and on turnover." This is how the matter stood in the Joint Select Committee Report. This Report was considered in the House of Commons, and there was a debate over it for a few days and then a decision was arrived at in the House. The resolution that was accepted was this, —it would be relevant for my purpose to refer to it, —"That this House accepts the recommendations of the Joint Committee on the Indian Constitutional Reform as the basis for the revision of the

Indian Constitution and considers it expedient that a Bill should be introduced on the general lines of the Report."

So the House accepted the proposition that this Report of the Joint Select Committee should be the basis of the legislation. The Bill that followed this, was prepared from and on the general lines of the Report of the Joint Select Committee. I have with some difficulty procured a copy of the Bill that was prepared in accordance with this Report. That was Bill No. 17, dated the 19th December, 1934. In this Bill, the annexure and the item in List II were combined together. This is List No. II, seventh schedule, item No. 47, "Taxes on the sale of commodities on turn-over". Here the word "Sale" appears for the first time. I have pointed out that this List was prepared on the basis of the Joint Select Committee's Report. The introduction of the word "Sale" does not therefore alter the matter or change its substance. Then, later on, after prolonged discussion the Bill was changed in many places and a new Bill was prepared, and this new Bill, No. 75, dated the 30th May, 1935, made slight changes in the previous Bill. In the original Bill it was "Taxes on the sale of commodities and on turn-over". In the revised Bill it was "Taxes on the sale of goods". So I would submit that the word "goods" includes all these composite ideas and they were condensed into one word—"goods". The Legislature did not leave us in doubt and the word "goods", which seems to me to be the most important word in connection with this discussion, was defined in section 311 of the Government of India Act, 1935, thus: "Sale includes all materials, commodities, and articles". The word "*includes*" provides enough elasticity to include electricity.

Mr. PRESIDENT: I think that point is not disputed by anybody. Whether electricity is a "goods" or not is not disputed; so you need not labour that point.

Mr. NAZIRUDDIN AHMAD: All right, Sir. That simplifies matters to a great extent. Now the only question that remains is whether the transaction is "sale". To this I beg to submit that any price which is realised for consumption of goods is "sale". We come across numerous examples in our daily life. You go to a hotel where you eat and drink and pay for it. Here we buy the commodities and the transaction is a sale.

Mr. NARESH NATH MOOKERJEE: What about those who go in for credit?

Mr. NAZIRUDDIN AHMAD: That would also be sale. Cash or credit does not alter the character of the transaction. We daily buy commodities on credit. Electricity is supplied for a month on credit;

it is measured by the meter and then the price is paid on the quantity bought. It is "sale". So far as the idea of "sale" is concerned, I submit it is the easiest conception in connection with the present discussion. Let us consider the terms of the Bengal Electricity Duty Act, 1935. In section 3 it is stated "there *shall be* charged a levy and paid to the Government of Bengal on the units of energy *consumed*", i.e., it is after the goods are consumed that the duty is fixed on the quantity bought. This is made more clear in section 5. In the case of energy supplied by a licensee "the licensee shall collect and pay to the local Government the electricity duty payable under section 3 on the units of energy supplied". The duty is levied—not on the quantity manufactured—the amount lost by leakage is never taxed—but on the electricity consumed and paid for. It is therefore clear that all the elements of sale are present here. The goods are supplied and the price is paid by the buyer—the consumer—and the duty is levied on sale. The licensee is merely the collector—the duty is really paid by the buyer. With regard to one small matter—where electricity is supplied not by a licensee, i.e., for one's own consumption, I submit that it is also a "sale" in one sense. There is such a thing as legal fiction and we are very much accustomed to this in legal history. In fact these legal fictions are very frequent. In Hindu Law the idea was that unless one was a son to a person deceased he could not inherit the latter's properties. So the law-givers said "let one who has no son adopt somebody as a son and make him a son" and thereby all difficulties of inheritance disappeared. I beg to submit that there is no difficulty in introducing this legal fiction here. A man who produces and consumes his own electricity, buys electricity from himself at cost price.

Mr. HUMAYUN KABIR: This is not logical.

Mr. NAZIRUDDIN AHMAD: My hon'ble friend opposite is not satisfied and wants more logic. Legal discussions, to be useful, have to be intensely practical and not often quite "logical". A great jurist has said that "the life of the law is not logic, but experience". Here "goods" are delivered, price is charged and the duty is levied on the "goods" bought or consumed. I beg to submit that under these circumstances, the transaction is a "sale of goods". I do not agree, I do not admit that the interpretation is attended with any difficulty at all. It is clearly "sale of goods". I had some difficulty in holding that electricity was "goods", but once that is conceded—and, the entire section of the House admits that it is "goods"—the rest follows as an easy consequence.

Mr. RANAJIT PAL CHOUDHURY: Nobody knows what electricity is.

Mr. NAZIRUDDIN AHMAD: It is a kind of energy but it is "goods" within the meaning of the Act and for our present purposes. It is "goods" under the Act.

Mr. PRESIDENT: That point is not disputed.

Mr. NAZIRUDDIN AHMAD: I was trying to place it beyond controversy as I found that some of my friends opposite were inclined to dispute this. I submit that electricity is "goods" and it is sold to the public and on that sale the tax is levied. You would be pleased to consider the previous state of the law before the Government of India Act, 1935, came in, under which electricity was taxed by the province——

Mr. PRESIDENT: You do not contend that this is an item of luxury, I believe.

Mr. NAZIRUDDIN AHMAD: Though I need not contend that it is an item of luxury, I maintain that electricity is luxury—though the points of view of different men will differ. Personally speaking, I do not use electricity and I have not got a motor car. To me these are luxuries. Mr. Gandhi would hold that all these are luxuries and on this matter I humbly agree with him.

Mr. PRESIDENT: Order, order. Will you contend on that line of argument that the local Legislature is entitled to legislate because everything is a luxury, following your own statement?

Mr. NAZIRUDDIN AHMAD: I submit, Sir, that "luxury" has been placed in List No. II, i.e., in the Provincial List. I do not contend that everything is a luxury. If anything is a luxury it automatically comes within List No. II and the matter comes within the taxing jurisdiction of the Province. The only question is whether a particular thing is a luxury. If it is, it is taxable by the Province. Electricity which is available to and used by only two per cent. of the people of Bengal, is a luxury. Now, Sir, we were accustomed to do our work by manual labour. Electricity has come to work for us and made us lazy—an effect of "luxury". Modern-minded people like my friends on the Congress benches will say that it is a necessity—contrary to the teachings of their leader, Mr. Gandhi.

Once it is shown that this is a luxury, then it is certainly taxable. That is a position which we cannot get rid of. Anything which is not an absolute necessity is a luxury. Food of some kind is a necessity, but delicious and rich food is a luxury. Electric lights and fans are luxuries and not necessities. On both these grounds, therefore, we can impose the duty. Further, "electricity" itself is within the provincial

List. I do not know whether on this ground also we can utilise the powers of the Provincial Legislature to tax it. If we can, then it would justify the duty.

Mr. PRESIDENT: But duty on a thing and the thing itself are quite different.

Mr. NAZIRUDDIN AHMAD: I bow down to your ruling, Sir——

Mr. RANAJIT PAL CHOUDHURY: On a point of order, Sir——

Mr. PRESIDENT: Order, order. I think the hon'ble member should be allowed to proceed without interruption.

Mr. NAZIRUDDIN AHMAD: Therefore, Sir, on all these grounds, I submit it is a case of "sale of goods" or "luxury"—possibly both—and is taxable.

Mr. RANAJIT PAL CHOUDHURY: May I submit, Sir, that excise duty on motor cars is something like 25 to 30 per cent.——

The Hon'ble Mr. H. S. SUHRAWARDY: It is import duty.

Mr. RANAJIT PAL CHOUDHURY: I stand corrected. The duty on motor cars is something like 25 to 30 per cent., but the duty on aeroplanes is only 2 per cent. Does that go to show that the aeroplane is not a luxury?

The Hon'ble Khwaja Sir NAZIMUDDIN: Extraordinary logic indeed!

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, my friend opposite is reluctant to place any reliance on any dictum of economics taken from a dictionary, but may I give him a passage from John Stuart Mill's Political Economy? I dare say my friend will admit that it is a great work of a great author—an eminent master of economics.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: He is now antiquated.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: His theory is as true to-day as anything expounded in our times, and I do not think that its comprehensiveness can be questioned by any sane man. With your permission, Sir, I shall read out a passage from his book, "Political Economy" (Book 5, Chapter 3, page

562). It runs thus: "Taxes on commodities are either on production within the country, or on importation into it, or on conveyance or sale within it, and are classed respectively as excise, customs or tolls or transit duties." He has taken a most comprehensive view of all possible taxes, and if his deduction is right, the tax on electricity must come under the head "Excise."

The Hon'ble Mr. H. S. SUHRAWARDY: It is a tax on the sale of goods.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: No; but apart from this, Sir, I should like to raise another point of order quite independent of this—I have finished with my friend opposite, so far as that particular point goes. My new point of order is this you, Sir, have ruled, that a Bill which proposes to continue expiring laws cannot be treated as an amending Bill, and relying on precedents created by the British Parliament, you have rightly ruled that it is not possible for this House to amend the provisions of these expiring laws when the Bill is merely for continuance. I bow down to that ruling.

Mr. PRESIDENT: Except that there must be a distinct provision for amendments.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I quite understand that. I would now ask you for a ruling on a different ground, and I am not precluded from doing so in spite of the ruling which you have already given, as it will not be an encroachment upon the previous one. I would ask you for a ruling as to whether there must be a line of demarcation between a Bill which proposes to continue certain expiring laws without effecting any change in the fundamental character of those expiring laws and a Bill which proposes to continue certain expiring laws and, at the same time, seeks to alter its character. I think, Sir, that there should be a line of demarcation to separate the two. If the present Bill merely proposes to continue certain expiring laws as they stand now, well, of course, the ruling which you have already given would do not harm; but, the Bill under review, I submit, seeks to alter the character of the expiring laws and that in a very drastic manner too. The expiring laws are all temporary and emergency laws, but the Bill seeks to make them permanent. That is a very great change indeed, and I think that Government, in that case, are not entitled to get behind the ruling that you have given for protection. If it is proved that this Bill is going to alter the character of the expiring laws, it must be treated as an amending Bill. In my considered opinion, it will in that case be deemed to have exposed all the sections of the expiring laws. This does not clash with your previous ruling at all.

Mr. PRESIDENT: Do I understand that the hon'ble member's point is this that the House is entitled to fix a period? Is that so?

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Yes, Sir. That is one of my points.

Mr. PRESIDENT: That will certainly be allowed. The House has the right to restrict the scope of the Bill but not to extend it.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Then there is another point, Sir, which I should like to submit. The Hon'ble Finance Minister was relying upon sub-section (2) of section 143 of the Government of India Act, 1935, read with the Order-in-Council relevant to that sub-section. But, Sir, you will notice that in that sub-section as well as in the relevant Order-in-Council, a time-limit has been imposed. Now, if he is relying on them to make the passage of this Bill into law possible, he must then confine the operation of his Bill within the period specified therein. There is no provision for making the particular type of expiring laws permanent. Under any circumstance these expiring laws can be made to go beyond the 1st of March, 1939. I should like to submit that this Bill is going to alter the character of the expiring laws, that it proposes to continue the expiring laws beyond the time-limit imposed in the Order-in-Council read with sub-section (2) of section 143 of the Government of India Act, 1935, and as such I think you should rule that it is *ultra vires*, unless the mover thereof agrees to rectify the defects.

Mr. D. H. WILMER: Mr. President, Sir, since this debate began yesterday, I have endeavoured to find out some materials by which I can be of assistance to this House on the vexed question whether electricity can be described as "goods."

In the ordinary language one could not describe electrical energy as goods, possibly because the English word "goods" originated centuries before the human race had discovered the existence of electricity. But I have been able to find an authority which, with your permission, Sir, I will place before the House. It is a decision of the English Court of Appeal presided over by the late Cozens-Hardy, M.R. The question that arose in that case was whether an agreement between the County of Durham Electrical Power Distribution Company and the consumers of electricity was liable to stamp duty as an agreement for the sale of goods. Mr. Dankeverts, who appeared for the appellants, argued that this agreement was an agreement for the sale of goods. That was not disputed by the Solicitor-General for the Crown and the Lord Justice, the Master of the Rolls, in his judgment, which I will read very briefly, said this: "We have heard a very interesting, learned

and elaborate argument from Mr. Dankeverts and his junior as to the meaning and effect to be given to that heading of Schedule 1 which deals with agreements and by way of exception from it, clause 3 exempts an agreement for or relating to the sale of goods. The case has been argued on the assumption that electrical energy is to be considered 'goods, wares and merchandise' for the purpose of this clause and we are dealing with it on that footing. It must not be taken that we have either assented to or dissented from that proposition which may some day require careful consideration." So far, Sir, that is the only authority which I have been able to find on the subject. But I think in view of the fact that the English Court of Appeal were prepared to proceed on that basis, I think, Sir, we may follow the same line.

The other point is the construction to be placed on section 143 (2) of the Government of India Act, 1935, read with section 3 of the India and Burma (Transitory Provisions) Order, 1937. I would submit that for the purpose of construction of section 143 (2) the place where it appears in the Act must not be overlooked: it appears in Chapter I of Part VII. Chapter I is headed "Finance." There is a sub-heading "distribution of revenues between the Federation and the Federated Units." Section 143, therefore, deals with the method of the distribution of revenue between the two component parts of the constitution and that is its object, and when we refer to the Transitory Provisions Order, we find in the preamble the words "to make with respect to a limited period, temporary provisions for ensuring that during and after the transition there are available to all Governments in India sufficient revenue to enable the businesses of those Governments to be carried on." That, Sir, I submit is the primary object of section 143, and I would ask when a construction is placed on that section, that object must be kept in view. Now, Sir, we are considering to-day a provincial Act which was passed before the 1st April 1937 which has as one of its clauses a provision that it shall cease to be in operation on a certain date. Section 143 has provided how the Central Authority can bring to an end a tax which it has allowed a Provincial Government to make use of pending the transitory period, and therefore I submit it was not the intention of the framers of the Act or the Transitory Provisions Order, that a Provincial Government which is having the benefit of a tax imposed before the 1st April 1937, should be deprived of that tax merely because the Provincial Government in its original Act had said that the tax was to come to an end on a specified date. It is the Central Government which has the authority to say that the Provincial Government should no longer enjoy this tax—that power is vested in the Centre. I submit that the obvious intention of the Government of India Act, 1935, is that until the Centre say "stop," the province is allowed to continue the tax. What I would suggest is that the proper construction of this section

is that it relates to taxation and not to legislation which is the machinery by which taxation is created. The Bill, which we are considering to-day, is merely a matter of machinery for imposing taxes. Section 143 refers to the tax and not to the machinery by which it is imposed, and therefore for the proper construction of section 143, I submit that there is no bar to a Provincial Government introducing a Bill for the purpose of continuing a tax which was legally imposed before the 1st April 1937. They still have the power to tax. The legislation of the Act is merely the machinery required for the purpose of bringing that tax into effect.

Mr. PRESIDENT: Do I understand the hon'ble member to say that no legislation is also necessary after the expiration of the Act?

Mr. D. H. WILMER: No, Sir, I do not submit that no legislation is necessary. But what I say is that the wording of section 143 impliedly includes the power to legislate for the purpose of continuing a tax which was in existence before 1st April 1937.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: On a permanent footing?

Mr. D. H. WILMER: On any footing, until the Central Government by order say that that tax should no longer be continued by the provinces.

Mr. PRESIDENT: But section 3 of the Order-in-Council limits the period to two years, that is up till 1st April 1939. Would it be within the competence of this House to legislate beyond 1st April 1939?

Mr. D. H. WILMER: I can say that section 3 (*1*) of the Transitory Provisions Order could have been better drafted. But what I would submit that on a liberal construction the opening words "for a period of two years from the commencement of the Act" is really repeated in the last sentence where it says "should have the effect as if reference to 1st January 1935 would have reference to the commencement of the same Part III." We know that the period intervening between the 1st January 1935 and the commencement of Part III is a period of two years. What I would submit is that the effect of section 3(*1*) is merely to substitute the date 1st April 1937 for 1st April 1935 in section 143(*2*).

Mr. PRESIDENT: Then there is no significance in the words "for two years".

Mr. D. H. WILMER: I submit not.

Mr. PRESIDENT: May I draw your attention to the fact that section 100 of Part V, Chapter I of the Government of India Act, 1935, deals with legislative power, while section 143, as you have rightly said, is about the distribution of revenue heads into provincial and federal units. I should like to know whether the House will have the right to legislate and the right to levy tax for a certain period. The power of legislation is to be derived from any section that comes under Part V and not under Part VII.

Mr. D. H. WILMER: My argument on that point would be what I have already advanced, namely, that section 143(*2*) implies the power of the machinery to impose the tax. If you have the power to tax, you will have to adopt the legal method to bring that tax into existence.

Mr. PRESIDENT: May I draw your attention to the *Gazette of India* of the 19th February where in the Statement of Objects and Reasons, Sir James Grigg in introducing a Bill to fix uniform rates for the levy of certain stamp duties throughout British India, says "in the more important provinces rates laid down in the Stamp Act have been enhanced by local legislation. This is due to expire shortly in Bombay and Bengal and cannot be renewed as such by the operation of section 143(*2*) of the Government of India Act."

Mr. D. H. WILMER: I submit, that is a mere expression of opinion.

Mr. PRESIDENT: Do you mean to say that it cannot affect our power?

Mr. D. H. WILMER: Certainly: In answer to the point you put I submit that the effect of section 143(*2*) is to alter Schedule VII to the Government of India Act, 1935, that is to say, if I am correct in my assumption or my argument, the power to tax implies the power to use the necessary machinery. If the Provinces are allowed, until restrained by the Central authority, to continue the tax and, if necessary, to legislate to that purpose, the effect of that is to alter the schedule.

The last submission which I would like to make is in connection with sub-section (*2*) of section 3 of the Transitory Provisions Order. This reads "nothing in this paragraph shall continue any taxation beyond the time for which it would continue, if the Government of India Act had not been passed." I submit that a cautious draftsman has inserted that sub-section because of the mandatory nature of the first sub-section. The first sub-section uses the words "shall have effect" and if that sub-section had not been inserted, then I submit, it would not have been fair. He might have thought that if a Provincial Government had imposed a tax by an Act before the 1st April, 1937, and the Act stipulates that the tax would come to an end on the 30th June,

1938, section 3 (*1*) will have the effect of continuing that tax, notwithstanding the express provision of the Provincial Statute and therefore he says "nothing in this paragraph shall continue."

Now, if the sub-section (*2*) was to have the meaning which I have suggested, namely, it prevents a Provincial Government from continuing the existing Act by a new Act, I submit the words would have been "nothing in this paragraph shall authorise the continuance by somebody else". The word "continue" I say, refers to a continuance by this order itself automatically. The only object is to shut out any argument that section 3(*1*) shall automatically extend the tax beyond the period for which it was imposed.

Mr. PRESIDENT: For a period of two years, or any period until it is restricted by the Federal Legislature.

Mr. D. H. WILMER: But that need not affect the provincial statute. For the provincial statute says it shall come to an end on the 30th June 1938. Section 3(*1*) of the Order is not automatically to continue that tax.

Mr. PRESIDENT: Your contention is that, had there been no limit in the Act itself about the period of its duration, it would have been extended automatically under section 3 of the Orders-in-Council.

Mr. D. H. WILMER: No, Sir. I am afraid I have not been able to make myself quite clear. What I am suggesting is that section 3(*2*) of the Order does not prevent a Provincial Government from passing an Act after the 1st April 1937 merely for the purpose of continuing an Act which was in existence before the 1st of April 1937. My reason is that the wording of sub-section (*2*), viz., "nothing in this paragraph shall continue" by itself does not prohibit a Provincial Government by its own Act from continuing it. It says that nothing in this paragraph shall have the effect of continuing.

Mr. PRESIDENT: Can it be continued for two years till the 1st April 1939 or even after that date?

Mr. D. H. WILMER: No, Sir. I would submit that the wording of sub-section (*2*) is that "nothing in this paragraph shall continue any taxation beyond the time for which it would continue if the India Act had not been passed".

Mr. PRESIDENT: So far as this particular Act is concerned, it will end on the 31st of May, 1938. Do you contend that under clause (*3*) Order-in-Council, this House will have the power to enact a legislation extending the life of that legislation beyond the 1st April 1939?

Mr. D. H. WILMER: Yes.

Mr. PRESIDENT: Do you maintain that the period of two years mentioned in clause 3 (*1*) of the Order-in-Council has no bearing so far as this Bill is concerned?

Mr. D. H. WILMER: That is my view. I was dealing with sub-section (*2*) and all I wish to submit is that the intention of sub-section (*2*) is not to prevent what the Government intend to do in this case.

Mr. PRESIDENT: Does it extend the power that is restricted under section (1) where it is stated that the legislation can be only for a period of two years from the 1st of April, 1937, the time when the Provincial Autonomy came into force? Is that your contention?

Mr. D. H. WILMER: No, Sir.

Mr. PRESIDENT: Then, in that case, do you think that the legislation brought forward here to make this piece of legislation permanent, will be *ultra vires* on the ground that it attempts to perpetuate the law?

Mr. D. H. WILMER: It can only perpetuate the Bill, subject to the overriding power of the Central Authority.

Mr. PRESIDENT: That is a matter for the Federal Government to decide when they desire to bring a legislation. But when an attempt is being made to make this Act permanent and not to limit the period of its life till the 1st April, 1939, or any other prior date, will that in your opinion be within the competence of this Legislature, in the face of the provision in clause 3 (*1*) of the Orders-in-Council?

Mr. D. H. WILMER: I submit, yes—upon the only construction that I can place on section 3(*1*).

Mr. PRESIDENT: You think that section 3(*2*) has no connection with section 3 (*1*)?

Mr. D. H. WILMER: This paragraph certainly refers to paragraph (3).

Mr. PRESIDENT: Do you think that section 3(*2*) has no connection with section 3(*1*), where only a fixed period, namely, two years, is fixed for such legislation as has been passed in the intervening period?

Mr. D. H. WILMER: I submit that the wording of section 3(2) means paragraph 3 which embodies paragraph 3(*1*).

Mr. PRESIDENT: Then, how can you explain the meaning of the words "two years from the date of the commencement of Part III of the Government of India Act" mentioned in the Order-in-Council? Sub-section (*1*) of section 3 of the Orders-in-Council distinctly gives power to Provincial Governments to continue to levy taxes under such enactments as have been passed during the intervening period between the passing of the Government of India Act and the commencement of Provincial Autonomy. Then in clause (*2*) it says that "Nothing in this paragraph shall continue any taxation beyond the time for which it would continue if the India Act had not been passed." I thought that it was not even the intention of Government to suggest, that they could continue to levy the electricity duty after the expiry of the present Electricity Act of 1935 on the 30th May 1938, without recourse to further legislation, but it seems, Mr. Wilmer, you think that even such a legislation as the present Bill would not be necessary for continuing the levy of the tax.

Mr. D. H. WILMER: I had not really intended to address the House on that point as to whether we could extend it to more than two years. The only reason why I mentioned section 3(*2*) is because of a remark that was made yesterday that section 3(*2*) might possibly be construed as preventing Government from introducing this Bill at all, and I would submit that that is not the meaning of section 3(*2*).

Mr. PRESIDENT: All right. I appreciate your point.

Mr. BANKIM CHANDRA DATTA: With reference to the observations made by Mr. Wilmer, specially with regard to the meaning or definition of the word "goods" as given in the decision quoted by him, I would submit that the Sale of Goods Act, which is applicable here——

Mr. PRESIDENT: May I point out that this point is not in dispute here, because all the parties here are interested in including electricity as "goods", because the Opposition for their purposes consider that electricity must be considered as "goods" as in item 45, List I. The same argument is necessary also for the Government in order to establish electricity as "goods". So this point is not under dispute. Further, there was a case which came up in High Court some time ago which was known as Electricity Theft Case. That is not the contention, and no time need be wasted over this matter in which everybody is agreed.

Mr. BANKIM CHANDRA DATTA: I bow down to your ruling, Sir, if it is a ruling, but no amount of consent of the Legislature can give

"goods" a different meaning; that is my contention. But for the present I will not address the House on this subject.

As regards the point as to whether section 143(2) can in an implied way give the Legislature jurisdiction to legislate on these taxes, I submit, it does not. May I read the sub-section only once? It says: "Any taxation, duties, cess, etc., which immediately before the commencement of Part III of this Act, were being lawfully levied by any Provincial Government, municipality or other local authority or body for the purposes of the Province, municipality, district or other local area, under a law in force on the 1st January.....and so on....." Then it continues "may continue to be levied and to be applied to the same purposes until provision to the contrary is made by the Federal Legislature." So, if my friend Mr. Wilmer wants to suggest that this section gives the Provincial Legislature jurisdiction to legislate in an implied way on this matter, then it comes to this, that a municipality or a district board or any other local authority can be deemed fit to legislate on the subject, which it can never mean. Therefore all that it does, is simply to give power to the Executive, the Government, to continue to levy taxation under a law which was in force before the 1st of January, 1935. Then, Sir, the most important portion that I would like to draw your attention to, is this: It may continue to be levied until provision to the contrary is made by the Federal Legislature. That suggests at once that it cannot be made a permanent statute, that it precludes the possibility of this particular statute being made permanent. The very fact that this is a subject within the Concurrent List, shows that it can be made effective up till a period only, but not permanently: it can be continued for a definite period only.

Mr. PRESIDENT: Once you concede that it is a matter for the Concurrent List——

Mr. BANKIM CHANDRA DATTA: I do not concede that, Sir.

Mr. PRESIDENT: But even if for purpose of argument, you concede that it is a Concurrent List, I do not say for a moment that the object of Government is really to push it up to a Concurrent List, for that would not give them jurisdiction but even there they seem to have failed. Government do not want to put it in the Concurrent List. Their argument is that it comes under List 2 which deals with an exclusively provincial List, namely, sale of goods or luxury on which they can legislate exclusively, for instance, items Nos. 48 and 50.

Mr. BANKIM CHANDRA DATTA: It was on that ground that I was contending that it was not a "goods" but I was not allowed to develop my point by your ruling that it was agreed on all hands that electricity was "goods". But surely so far as I can see, it is not "goods".

Mr. PRESIDENT: Do you contend that electricity is not "goods"?

Mr. BANKIM CHANDRA DATTA: Yes, Sir.

Mr. PRESIDENT: Then you can argue that point.

Mr. NAZIRUDDIN AHMED: But I have shown, Sir, that electricity is "goods".

Mr. BANKIM CHANDRA DATTA: No, Sir, electricity is not "goods".

Mr. PRESIDENT: First make your point and then argue and establish your case. What is your point? Is it your contention that electricity comes under List I which is an exclusively Federal List?

Mr. BANKIM CHANDRA DATTA: Yes, it does. It comes under Item 45, List I.

Mr. PRESIDENT: Yes, item 45 chiefly refers to duties of excise on tobacco and other goods manufactured or produced in India, with certain exceptions. Once you say it is not goods—it goes into another list.

Mr. BANKIM CHANDRA DATTA: I was not here when this subject was debated. My point was that it could not be treated as "goods".

Then, Sir, the other point that I was going to raise is that in view of that section in the Indian Electricity Act and section 126(2) of the Government of India Act, 1935, Part II of the List in the 7th Schedule only suggests that the Federal Government will give directions——

Mr. PRESIDENT: Mr. Datta, it will be advantageous to the Chair if you first put forward your points and then your arguments.

Mr. BANKIM CHANDRA DATTA: My point is that this Legislature is incompetent to have a permanent statute as you propose to do. And I was suggesting that all the sections which refer to this point are section 143(2), Transitory Provisions Order, and section 3 which I shall just refer to. It says "For a period of two years from the commencement of Part III of the India Act the provisions of sub-section (2) shall have effect, as if the reference to the 1st of January, 1935, etc." By no stretch of imagination could it be suggested that it could continue to be in operation after May 1938, because the next sub-section which is

in the nature of a proviso and which controls section 3 is that nothing in this paragraph shall continue any taxation beyond the time for which it would continue if the India Act had not been passed.

Mr. PRESIDENT: That also is not disputed by Government. Government say that the Act will expire on the 31st May, but they claim that they can legislate for a further period.

Mr. BANKIM CHANDRA DATTA: Under what section?

Mr. PRESIDENT: Government say that it is under section 3(*1*), Order-in-Council.

Mr. BANKIM CHANDRA DATTA: But then it gives them only a period of two years, they cannot make it a permanent statute.

Mr. PRESIDENT: All this is on the assumption that it belongs to List 1, but it may be contended that it really comes under List 2 for which they have every right to legislate.

Mr. LALIT CHANDRA DAS: Sir, the Government for the purpose of this legislation have argued that it comes under item No. 50 of List II of Schedule 7 of the Government of India Act of 1935. But there is a difference of opinion between the Hon'ble Mr. Sarker and the Hon'ble Mr. Suhrawardy, who seems to think that it is a tax on luxury. The Hon'ble Mr. Sarker in referring to it said that it was the opinion of the Bombay Government that it could be brought under item No. 50. But really so far as the Hon'ble Mr. Sarker is concerned, he relied on item No. 48 of List II of Schedule 7, viz., a tax on sale of goods. So there is a difference of opinion between these two gentlemen. With regard to the point that it is a luxury, my reply is that electricity is certainly not a luxury. So far as the Calcutta citizens are concerned, it is really a necessity for the rich as well as for the poor and also for the ordinary shop-keepers. When the Hon'ble Mr. Suhrawardy was opposing the proposal of purchase of the Calcutta Electric Supply Corporation by the Calcutta Corporation with a view to municipalise the supply of electricity, he told this House that as a matter of fact, electricity is a great necessity and not a luxury and that he would see to it that it is nationalised and that every village is supplied with electricity. If it is a luxury, surely he would never have meant to bring it to every villager——

The Hon'ble Mr. H. S. SUHRAWARDY: On a point of personal explanation, Sir,—

Mr. LALIT CHANDRA DAS: As I am in possession of the House, I have every right not to give way and I would not——

Mr. PRESIDENT: I would request the hon'ble members to bear in mind that it is not unusual to give way when an hon'ble member wants to explain certain important points. In this instance, for example, the Hon'ble Minister wants to explain what he said in his speech. Of course, it is the inherent right of the hon'ble member speaking, to decide whether he should give way or not, but it is always observed that as a matter of courtesy——

Mr. LALIT CHANDRA DAS: All right, Sir. If he likes, he may.

The Hon'ble Mr. H. S. SUHRAWARDY: I want to say that after I have given electricity to the whole of Bengal, it will be a necessity, but until such time, when it is confined only to the few, it is a luxury.

Mr. LALIT CHANDRA DAS: The Hon'ble Minister contends that it is a luxury so far as a number of the citizens of Calcutta are concerned. It is certainly a necessity so far as the citizens of Calcutta generally are concerned, including the rich and the poor and the ordinary shop-keeper. And he contends that when it will go to the *mufassil* if ever his scheme of nationalisation comes into force, it will then become a necessity. My submission before the House is that as a matter of fact this tax on electricity is certainly not a tax on luxury. Now, Sir, regarding the point that it is a tax on sale of goods, I say, it is not even so. For, even taking electricity as goods, no tax is levied on the sale of electricity, but only on its consumption. Suppose, electrical energy is sold to the citizens,—by that fact alone Government will not be entitled to levy a tax. It has to be collected on consumption and after collection Government is to get something. So far as item No. 48 is concerned, it is not even a tax on the collection after consumption but on the sale of goods. Then, I would refer to section 100 of the Government of India Act, 1935, which keeps us within bounds as to where each of the Legislatures can go. Under section 100(*1*) it is quite clear that a Provincial Legislature cannot encroach upon federal subjects, and then even in concurrent jurisdiction where it exists between the Federal Legislature and Provincial Legislature, the latter can legislate only on concurrent subjects, subject to section 100(*1*) of the Government of India Act, 1935. My submission before the House is that as a matter of fact, the duty on electricity comes under item No. 45 of List 1 of the 7th Schedule of the Government of India Act, 1935, taking electricity as goods for purposes of duty. Now, there is an exception, of course, therein noted. The item comprises of duties of excise on tobacco and other goods manufactured or produced in India except alcoholic liquors for

human consumption, non-narcotic drugs, medicinal and toilet preparation, etc. So far as these exceptions are concerned, you will find in List No. 2, item No. 40 of the 7th Schedule, that the Provincial Government has got power to legislate and impose duties on alcoholic liquors for human consumption, opium, Indian hemp, medicinal and toilet preparations, etc., that is to say, on goods which have been shown as exception to item No. 45 of List 1 of the 7th Schedule.

That is clear, Sir. So what remains now in item No. 45? The words remain "Duties of excise on tobacco and other goods manufactured or produced in India." I say, Sir, we can take electricity though an invisible energy, as a goods, it is manufactured in India, and duty on electricity is a duty on excise. Therefore, I submit, Sir, it falls within item No. 45 of List I of the Seventh Schedule, and therefore the Provincial Legislature cannot legislate in this matter. Then, Sir, I would refer to section 143, sub-section (*2*) read with Orders-in-Council, India and Burma (Transitory Provisions) Orders clause (*3*), sub-clauses (*1*) and (*2*). So far as section 143, sub-clause (*2*) is concerned, I desire to place my view before the whole House. It is therefore necessary that I should read a portion of this sub-clause: "Any taxes, duties, cesses or fees which, immediately before the commencement of Part III of this Act, were being lawfully levied by any Provincial Government,"—I draw the attention of the hon'ble members of this House to the word "Provincial Government,"—"municipality or other local authority, district or other local area under a law in force on the 1st day of January 1935, may, notwithstanding that those taxes, duties, cesses or fees are mentioned in the Federal Legislative List, continue to be levied and to be applied to the same purposes until provision to the contrary is made by the Federal Legislature." My submission before the whole House, Sir, is this that it only makes a provision of what the Provincial Government can do. The Provincial Government is entitled to levy a tax, to raise a tax. So far as the applicability of sub-section (*2*) of section 143 is concerned, this has been rather limited by the operation of section (*3*), sub-clauses (*1*) and (*2*) of the Order-in-Council. Now, Sir, that order runs thus: "For a period of two years before the commencement of Part III of the Government of India Act, the provisions of sub-section (*2*) of section 143 of that Act, which authorises the continuance, until provision to the contrary is made by the Federal Legislature, of certain provincial taxes falling within the Federal List, shall have effect as if the reference to the first of January, 1935, were a reference to the commencement of the said Part III." Then the most import subclause comes in: "Nothing in this paragraph shall continue any taxation beyond the time for which it would continue if the India Act had not been passed." Here, Sir, two points are very clear, namely, neither section 143 (*2*) of the Government of India Act, 1935, nor the Order-in-Council says anything of the power of legislation. The second

point is that both this section and Orders-in-Council say what the Provincial Government can do, and to what length of time.

Now, Sir, here is an Electricity Act. By the operation of section 143 (*2*) and Order-in-Council, it is to continue only, I should say, until the 31st May, 1938, and not even up to two years, because it was a temporary legislation, where there was a fixation of time after which these taxes were to expire. Had there been no fixation of time, then its operation would have continued for two years only under sub-clause (*2*) of this Order-in-Council, that is till 31st March 1939 and then the Provincial Government could have levied, that is to say, raised the taxes without any fresh legislation. So, my submission is this, that section 143 (*2*) or the Orders-in-Council as above stated, does not deal with any power of legislation but only authorises the Provincial Government to continue to levy as if the Acts were there for a certain period and as if there was a limit as in this case till 31st May 1938. If the measure was not temporary, it would last only for two years, and no fresh legislation would become necessary for the purpose. The whole point therefore is, it it falls within the Federal List, this legislation which is before the House is *ultra vires* and illegal.

As I said before, it does fall in the Federal List No. 1 of 7th Schedule of the Act.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Sir, I am not a lawyer. I am a layman, and I will talk from the common-sense point of view. We have had enough legal argument as to whether we have legislative jurisdiction over this subject, and whether we can make it a permanent statute. I have heard brilliant lawyers on this side as well as on the other side. But my common-sense point of view is this, that here the Congressmen are coming forward to dispute our right to legislate on this tax——

Mr. PRESIDENT: Order, order. You can only speak on the point of order that has been raised by Mr. Humayun Kabir. On the merits of this Act, you will be permitted to have your say, but not at this stage. On the point of order you are not to put forward your common-sense point of view, but you have to talk only on the legal aspect of the matter.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: If we have not the right, let the Government of India challenge our right in the Federal Court and refer to the Judges of the Federal Court. Let them exercise their brains and give us more light on the subject.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I would only speak as regards the question of jurisdiction. Generally, Sir, duties on excise include duties on sale of goods that are produced in the country, but

there being two such expressions used in the two contiguous schedules, they should be given two meanings. Therefore, it is necessary to limit the duties on excise to these classes of duties, which are levied on production. As soon as the thing is produced, if there is a duty upon that production, that will be an excise duty; as for example, matches, —as soon as they are produced, there is a duty levied, whether it is sold or not——

Mr. PRESIDENT: That point has been made by the Hon'ble Minister.

Mr. HAMIDUL HUQ CHOWDHURY: I am coming to the Electricity Act, Sir. On reference to section 3, what appears to be the nature of the duties? The duties are not on production, but they are on units of energy consumed for the purpose of lights. It is not excise in the full sense of the term. If it is not excise, then either it is a duty or a provision of the Electricity Act. If it is a provision regarding the electricity, then it comes within the Concurrent List, and simply because the Government has not raised that point, I do not think that that should not be put forward, because it is a question of extending our power. Therefore, I say, Sir, either it is a tax on goods——

Mr. PRESIDENT: That point also has been raised by Mr. Nazir-uddin Ahmad.

I adjourn the House for fifteen minutes just to go through the points that have been raised and to give my ruling.

(The House then adjourned for fifteen minutes.)

(*After adjournment.*)

The Hon'ble the President's Ruling.

Mr. PRESIDENT: Order, order. Under section 100 of the Government of India Act, 1935, it is incumbent on the orginator of any Bill in a province to show that the subject matter of his legislation comes either in List 2 or in List 3 of Schedule VII of the said Act. That section comes under Part V, Chapter I, dealing with "distribution of legislative powers" but the Hon'ble Finance Minister tries to derive his power to initiate such legislation under section 143 (*2*) which is in Part VII, Chapter I, dealing with the matter of distribution of revenue between the federation and the federal units. The reply given by him on the point of order raised by the hon'ble Mr. Humayun Kabir regarding the incompetence of this House to impose any duty on electricity on account

of its not being included either in the exclusive Provincial Legislative List or in the Concurrent Legislative List was that section 143 (*2*) read with clause 1 of section 3 of the India-Burma (Transitory Provisions) Order, 1937, gave powers to the Provincial Legislature to bring up continuance of the Expiring Laws Legislation. His contention was that even assuming the duty on consumption of electricity is exclusively a federal subject, the local Government have got the right to pass legislation, which shall have effect at least till the 1st of April, 1939, that is for a period of two years from the commencement of Part III of the India Act, 1935. But reference to sub-paragraph 2 of paragraph 3 of the said Order-in-Council makes it clear that the power vested in the Provincial Governments to continue to levy the existing duties up to 1st April, 1939, will have no effect on such Acts as are expected to expire before the said date. Further, the reply of the Finance Minister to my enquiry, as to under what section of the Statute or Order he gets the right to legislate, did not satisfy the Chair. Both sections 143 (*2*) of the Government of India Act and section 3 (*1*) of the Order above referred to, merely give administrative powers for levying taxes for a certain period but I do not see that in any of these measures any power has been given to the local Legislature to legislate on matters which are exclusively on the Federal List. Conceding that the contention of the Hon'ble Finance Minister is correct, he cannot claim to have the power to get any legislation passed by this House, which shall have effect for a period extending over, after the 1st April, 1939, as is now contemplated in the present Bill. The Bill as it stands now, will be *ultra vires* of the Legislature, unless either this levy is restricted to a period ending on the 1st April, 1939, or it can be proved that the duty on the electricity does not come under the exclusive Federal List. The Federal Legislature has undoubted rights under section 143 (*2*) at any time to legislate on subjects like these, which will automatically put an end to the rights of the Provincial Government to levy any such duties. Here I may quote the opinion of the Hon'ble Sir James Grigg, the present Finance Member to the Government of India, who in the Statement of Objects and Reasons appended to the Stamp Duties Unification Act, 1938, published in the *Gazette of India*, of as recent date as the 19th February, 1938, states as follows: "In the more distant provinces the rates laid down in the Stamp Act have been enhanced by local legislation. This is due to expire shortly in Bombay and Bengal and cannot be renewed as such because of the operation of section 143 (*2*) of the Government of India Act, 1935."

The point of order raised by Mr. Humayun Kabir further involves intricate points of law and interpretations of Statute arising out of the Government of India Act, 1935, itself. I have given my most anxious consideration over this question, and there are grave doubts in my mind, about the competency of the local Legislature to deal with the subject-matter of this Act. I find that a similar Act has been passed by the

Bombay legislature, where they consider this tax as a tax "on any specified luxury" (*vide* Mears "The Law Relating to Electrical Energy in India and Burma", page 160). He states as follows: "Even before the new constitution came into force it was lawful for a Local Government to levy taxes in accordance with the Scheduled Taxes Rules of the Government of India, Finance Department, which include 'a tax on any specified luxury'." In Bombay, electricity may be considered as an article of luxury, but I am constrained to hold that in Calcutta, it cannot be considered so. Hence I do not derive any assistance from the Bombay precedent. It is contended that the duty on electricity comes under the item tax on the "sale of goods". The Bengal Electricity Duty Act which is now being attempted to be continued, contains provisions, which make it perfectly clear that the duty is not on the "sale of electricity" but for its consumption. Reference to section 5, sub-section (*4*) of the said Act where it is laid down that "the person who generated such energy shall pay to the local Government at the prescribed time and in the prescribed manner the electricity duty payable under section 3", makes it clear that the duty is on the consumer and not on the producer or the purchaser. The Preamble of the Bengal Electricity Duty Act, 1935, states: "An Act to levy a duty on electrical energy consumed....." It is, therefore, contended and rightly too, by some hon'ble members of the House, that such duty is an excise duty as contemplated in item 45 of List 1 of the said Schedule. Here I propose to quote certain authorities who have defined the word "Excise". In the *Business Encyclopaedia and Legal Adviser*, at page 243, it is defined as follows: "Excise is the name given to those duties or taxes levied on articles of consumption which are produced within the kingdom itself, as distinguished from customs duties which are levied at the ports upon commodities imported from abroad." Wharton in his latest edition of the *Law Lexicon* has defined the word "Excise" as "the duties or taxes laid on certain articles produced and consumed at home"—not only produced but also consumed at home—"amongst which spirits have always been the most important; but, exclusive of these, the duties on the licences of auctioneers, brewers, etc., and on the licences to keep dogs, kill game, etc., are included in the excise duties". Thus it is proved that the Hon'ble Finance Minister's contention that excise duties are levied on production and not on consumption is not correct.

It was up to the Finance Minister to show under what particular categories in List II or III of Schedule VII to the Government of India Act, 1935, this duty on electricity comes. As far as I have understood his point of view, he has really failed to point out anything definite. So, it is not easy for me to say that the duty on electricity comes under the jurisdiction of the local Legislature and as the point involved, is entirely of a new character, depending upon the provisions of the Government of India Act, 1935,—which ultimately can only be decided by

the Federal Court—I have been unable to find any precedent covering a point of this character. I have grave doubts in my mind whether such a question involving interpretation of statute can be decided on the issue of a point of order.

In this connection, I am strengthened by the procedure adopted in such cases in Canada and Australia. In Canada, so far as the Dominion Parliament is concerned, under the Standing Orders and Rules "a public Bill is required to be read a second time before it is committed to one of the Standing Committees and it would be open to any member on the motion for first or second reading, to raise a question as to the legislative competence of the Parliament of Canada to enact it. If the objections to the Bill on constitutional grounds carried the judgment of the House, the Bill would not, of course, receive second reading or possibly even first reading. A Public Bill, particularly a Government measure, may be passed even in the face of vigorous opposition based on constitutional objections. Questions of legislative competence often raise issues of nicety in the interpretation of the text of the British North America Act and of the decisions upon which lawyers well-versed in constitutional law, not to speak of laymen, may, and frequently do, entertain different opinions. Hence, where Bills, though opposed on constitutional grounds, are nevertheless passed, the validity of the legislation becomes a matter for determination by the Courts in proceedings in which the issue of legislative competence is raised."

The same seems to be the position in the Canadian province, that is to say, there are no Standing Orders dealing specifically with the question of vires, but objections on grounds of competence can be raised, and, if raised, the question whether they are to prevail, as obstacles to the passing of the Bill, would be settled in the last resort by a vote of the House.

There was at least one case some years ago in which a Bill introduced in the Parliament of Canada was referred to the Supreme Court, for the purpose of ascertaining whether the Parliament of Canada had authority to enact it in whole or in part, under the provisions of the Canadian Supreme Court Act, which empower the Governor-General in Council to refer to the Court for hearing and consideration important questions of law or fact touching *inter alia* the interpretation of the British North America Acts or powers of the Parliament of Canada or the Legislatures of the Provinces.

The initiative of raising a question of order as to the competence of the Legislature to pass a proposed Bill would lie with any member of the House.

In Australia, no Standing Orders or other machinery exist in either the Commonwealth or the State Parliaments which can be utilised for

declaring *ultra vires* at the earliest stage Bills which are outside the competency of the Legislature, because the Standing Orders have been adopted on the assumption that no legislation beyond the limits of the Constitution would be attempted.

It would, however, be in accordance with the principles of Parliamentary Practice for the Speaker to take action, either when the motion for leave to introduce a Bill was made, or at the first reading stage when the contents of the Bill are known, to rule the motion or measure out of order on the grounds that the Bill would initiate legislation outside the competency of the Parliament.

The initiative in raising the question of order could be taken by the Speaker, a Minister or any member of the House. It would of course be competent for the House to dissent from the Speaker's ruling.

It is, therefore, apparent that in Australia, the Speaker has the right to declare a motion or a measure out of order on the grounds that the Bill under consideration is beyond the competence of the Parliament to legislate. But even the case of Australia is not on all fours with the present case. There in Australia, the House has always the right to move a motion questioning a ruling given by the Chair, whereas in India a ruling given by the Chair is always final and no member has any power to challenge or question such a decision.

I, therefore, would like to follow the procedure prescribed by Redlich in his classical work on the Parliamentary Procedure. He says:—

"When precedents are not conclusive, the Speaker is to lay the matter before the House for decision, but it is entirely in the Speaker's discretion to judge whether and when to call for such a decision of the House. If he deems it unnecessary to do so, his ruling is final". Further on he states: "Among so great a multitude of precedents it can but rarely happen when the Speaker will be unable to find a more or less relevant guide for his conduct without an appeal to the House. And when he has once given his decision there can be no refusal to accept his verdict, nor any discussion of his ruling by the House."

In our case the Government of India Act, 1935, being a recent Act, which partly came into force in 1937, there were no occasions for decisions creating precedents, which may guide the Chair in solving a problem like this. My difficulties have further been increased by the fact that the Bengal Legislative Assembly has already pasesd this Bill; moreover as the decision may lead not merely to the killing of the Bill but also seriously restrict the powers and the jurisdiction of Provincial Legislature, I feel hesitant to take the responsibility on myself alone. The President is the mouth-piece of the Council. He represents

the House. Of course, it is specially binding on him to protect the rights of minorities and the Chair will be jealous when the rights of minorities are encroached. But the right of taxation, it has rightly been said, derives its origin from the right of representation and whether any taxation proposal should be accepted or not should be the primary function of the representatives of the people. It is on that ground that the elected Upper Houses have exercised the right of amending all Bills including Finance Bills, in all democratic countries. In France, the "Senate has the complete amending power—authority to amend so severely as to reject or entirely remodel the Finance Bill. The elective origin of the Senate gives it the right which perhaps might not be granted to non-elective bodies" (Dr. Herman Finer's Modern Government, Volume I, page 702). In the United States of America, "all legislative powers granted by the constitution are vested in both Houses. Only bills to raise revenue must originate in the House of Representatives". The analogy of England where the Upper House is mostly hereditary, is not applicable to other democratic countries.

It is only for the purpose of avoiding hasty legislation that the Government of India Act, 1935, has also provided the bicameral legislatures not only in the Central Government, but also in the majority of the provinces. The Chair apprehends that, even if the present Bill is passed, empowering the Provincial Government to continue to levy electricity duty on consumers of electric energy, cases may arise hereafter, where Government may be involved in litigations in which the question of the Legislature's authority to pass such a legislation may be disputed in a Court of Law after the 30th of May, 1938, which is the date on which the existing Electricity Duty Act is expected normally to expire. Here I may quote Sir John Marriot who in his book in the Second Chamber states as follows:—

"Under modern conditions of legislation when a vast number of bills are sent up from the House of Commons with contradictory amendments only partially reconciled, and with many clauses imperfectly discussed or even closured by compartments, some competent revising body is absolutely essential if the legislative output is intended to serve any purpose except the increase of litigation. Such work the House of Lords does undeniably well."

As I have explained before, our difficulties are, that this Council as well as the Government of India Act, 1935, that constituted it, is of very recent origin and I cannot find any precedent to guide me in giving a definite ruling on this point. I cannot say that no doubts have been raised in my mind about the point of order. The Chair has fully explained the implications of the passing of this legislation but feels that in the absence of a precedent for guidance of such an important

matter, it should be left to the decision of the House and I, therefore, decide to put it before the House. The House will have to decide whether they will entertain the question of continuance of a measure as contemplated in the Schedule of this Bill.

The time is up and I must adjourn the House now. I shall put the question first to-morrow and the House will have to decide one way or the other.

Adjournment.

The Council then adjourned till 2-15 p.m., on Thursday, the 24th March, 1938.

Members absent:

The following members were absent from the meeting held on the 23rd March, 1938:—

(1) Banerjee, Rai Bahadur Keshab Chandra.
(2) Dutta, Mr. Kamini Kumar.
(3) Ellahi, Khan Bahadur S. Fazal.
(4) Goswami, Mr. Kanai Lal.
(5) Hossain, Mr. Latafat.
(6) Hossain, Mr. Mohamed.
(7) Huq, Mr. Syed Muhammad Ghaziul.
(8) Jan, Khan Bahadur Shaikh Muhammad.
(9) Karim, Khan Bahadur M. Abdul.
(10) Khan, Khan Bahadur Muhammad Asaf.
(11) Mookerji, Dr. Radha Kumud.
(12) Mukherji, Rai Bahadur Satis Chandra.
(13) Ormond, Mr. E. C.
(14) Sinha, Rai Bahadur Surendra Narayan.

B. G. Press—1938-39—3072A—900.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Thursday, the 24th March, 1938, at 2-15 p.m., being the twenty-fourth day of the First Session, pursuant to section 62 (*2*) (*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

Report of the Committee of Petitions.

Mr. PRESIDENT: Order, order. The Deputy President will now please present the statement of petitions received.

Mr. HUMAYUN KABIR: Are there no questions to-day?

Mr. SHRISH CHANDRA CHAKRAVERTI: Apparently not!

Mr. HUMAYUN KABIR: Sir, no questions were answered yesterday, and some questions ought to have been answered to-day.

Mr. PRESIDENT: Mr. Deputy President!

Mr. DEPUTY PRESIDENT (Mr. Hamidul Huq Chowdhury): Mr. President, Sir, I beg to place before the House the Report of the Committee of Petitions regarding certain petitions affecting the amendment of the Bengal Tenancy (Amendment) Bill, 1937, a copy of which has been circulated to members. I submit, Sir, that that may be taken as read.

The following statement, prepared according to the decision arrived at by the Committee of Petitions at the meeting held on the 11th March, 1938, is circulated for the information of the House:—

Statement of Petitions received.

(1) Petition, dated nil, and signed by thirteen hundred and nine persons from the Brahmanbaria subdivision of district Tippera, expressing disapproval of clause 7 of the Bengal Tenancy (Amendment) Bill, 1937.

(2) Petition, dated the 2nd December, 1937, signed by hundred and fifty-four persons from village Jhaupara, police-station Mahisadal, subdivision Tamluk of the district of Midnapore, expressing disapproval of clause 7 of the Bengal Tenancy (Amendment) Bill, 1937.

(3) Petition, dated nil, and signed by forty persons from certain villages of the Mahishadal police-station, subdivision Tamluk of the district of Midnapore, expressing disapproval of clause 7 of the Bengal Tenancy (Amendment) Bill, 1937.

(4) Petition, dated nil, and signed by twenty-one persons from certain villages of the Mahisadal police-station, subdivision Tamluk of the district of Midnapore, expressing disapproval of clause 7 of the Bengal Tenancy (Amendment) Bill, 1937.

(5) Petition, dated the 23rd February, 1938, from the Chairman of a meeting of cultivators of certain villages of Egra police-station of the district Midnapore, expressing disapproval of clause 7 of the Bengal Tenancy (Amendment) Bill, 1937.

(6) Petition, dated the 23rd February, 1938, from the Chairman of the meeting held in Kungabari of the inhabitants of some fifteen to twenty villages of Egra police-station of the district of Midnapore, expressing disapproval of clause 7 and sub-section (7) of section 26G of the Bengal Tenancy (Amendment) Bill, 1937, and the Bengal Tenancy Act, 1885, respectively.

(7) Petition, dated nil, from the Chairman of the meeting held in village Depal, police-station Ramnagar, district Midnapore, expressing disapproval of clause 7 and sub-section (7) of section 26G of the Bengal Tenancy (Amendment) Bill, 1937, and the Bengal Tenancy Act, 1885, respectively.

(8) Petition, dated the 16th Falgoon, 1344B.S., from Babu Brindaban Biswas of village Sharkhola, district Dacca, regarding the Bengal Agricultural Debtors' Act, 1935.

(9) Petition, dated the 6th Falgoon, 1344B.S., from Bhusai of village Darihati, district Dacca, regarding the Bengal Agricultural Debtors' Act, 1935.

GOVERNMENT BILL.

The Bengal Expiring Laws Bill, 1938.

Mr. LALIT CHANDRA DAS: On a point of order, Sir——

Mr. PRESIDENT: There is nothing before the House on which you can rise on a point of order. Is there anything on which you want any information, Mr. Das?

Mr. LALIT CHANDRA DAS: No, Sir, I don't want any information, but I rise on a point of order.

Mr. PRESIDENT: About what?

Mr. LALIT CHANDRA DAS: It relates to the ruling that was given by you yesterday.

Mr. PRESIDENT: Rulings are always final, and no points of order are allowed to be raised on them.

The Hon'ble Mr. NALINI RANJAN SARKER: Let the business pending before the House be finished first.

Mr. PRESIDENT: The question before the House is whether this House is competent to pass the continuance of Bengal Electricity Duty Act, 1935.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: At what stage, may I know, Sir, the point of order can be raised?

Mr. LALIT CHANDRA DAS: My point of order, Sir, related to this question being put to vote, and so I rose on my point of order at the very beginning. I submit, Sir, please allow me to rise on my point of order before the House divides.

Mr. PRESIDENT: Hon'ble members ought to know that when a division is claimed, no point of order can be raised until that division is over.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: May we know, Sir, at what stage a point of order can be raised?

Mr. PRESIDENT: After the division is over.

The question before the House is whether this House is competent to pass the continuance of the Bengal Electricity Duty Act, 1935.

The House divided:—

AYES—33.

Ahamed, Mr. Nur.
Ahmad, Mr. Naziruddin.
Ahmed, Mr. Mesbahuddin.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Chowdhury, Mr. Hamayun Reza.
Chowdhury, Mr. Rezzaqul Haidar.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Esmail, Khwaja Muhammad.
Haidar, Nawabzada Kamruddin.
Hamida Momin, Begum.
Hossain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Mohamed.
Huq, Mr. Syed Muhammad Ghaziul.
Ibrahim, Khan Bahadur Maulvi Mohammad.
Jan, Khan Bahadur Shaikh Muhammad.
Khan, Khan Bahadur Muhammad Asaf.
Khan, Maulana Muhammad Akram.
Lamb, Mr. T.
McFarlane, Mr. J.
Rahman, Khan Bahadur Ataur.
Rahman, Mr. Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Roy, Rai Bahadur Radhica Bhusan.
Roy Chowdhury, Mr. Krishna Chandra.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Saileswar.
Stokes, Mr. H. G.
Wilmar, Mr. D. H.

NOES—14.

Bose, Rai Bahadur Manmatha Nath.
Chakraverti, Mr. Shrish Chandra.
Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Datta, Mr. Narendra Chandra.
Dutta, Mr. Kamini Kumar.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brajendra Mahan.
Pal Chaudhury, Mr. Ranajit.
Poddar, Mr. H. P.
Ray Chawdhury, Maharaja Sir Manmatha Nath, of Santosh.
Sanyal, Mr. Sachindra Narayan.
Sen, Rai Sahib Jatindra Mohan.
Sinha, Rai Bahadur Surendra Narayan.

The motion was carried.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Now that the voting is over, may I rise on a point of order, Sir?

Mr. PRESIDENT: Yes.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: May I have a ruling from you as to whether any section of the Government of India Act, 1935, or any of our Rules and Standing Orders made thereunder, provide for a point of order to be decided by the vote of the House? With your leave I should like to draw your attention in this connection to section 13 of our Rules and Standing Orders which definitely lays down that all points of order which may arise, shall be decided by the President and his decision shall be final. You will notice, Sir, that the said rule is mandatory; such a matter is, therefore, not within the province of the members of the Legislature. You will perhaps agree that if a matter is to be placed before the House for its consideration, it can only be done by a motion. Section 38 (*1*) of our Rules and Standing Orders is conclusive on this point, as it definitely lays down that a matter requiring the decision of the Council must be brought forward by means of a question put by the President and brought forward by a member. The President, it will be admitted on all hands, is precluded from making a motion himself and on his own initiative. Will it not, on the other hand, be creating a dangerous precedent if a point of order raised by a member of this House is decided by the vote of the House——

Mr. PRESIDENT: Is the hon'ble member questioning the ruling from the Chair?

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I am not questioning the ruling——

Mr. PRESIDENT: The ruling has been given by the Chair and whether it is right or wrong it cannot be questioned. The President has given his ruling and that is final.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: May we have your ruling on the matter for future guidance——

Mr. PRESIDENT: The Chair is not bound to give any reason for his decision. He is fully competent to say yes or no on any point raised and also to hold whether the point raised is a point of order, at all, or not; and it is only with his permission that members are allowed to offer their reasons in support of their point of order.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I should like to know if I was wrong when I said that section 13 was mandatory?

Mr. NAZIRUDDIN AHMAD: May I submit that the Maharaja was right when he said that section 13 was mandatory, but following that he cannot question the ruling of the Chair——

Mr. PRESIDENT: Order, order. I thought that the Maharaja was raising a point of order, but I find that he is merely putting a question and as regards answering a question, it is absolutely discretionary for the President to answer him or not.

Mr. LALIT CHANDRA DAS: May I rise on a point of order——

Mr. PRESIDENT: There is nothing before the House on which a point of order may be raised. Now the question before the House is that the Court-fees (Bengal Second Amendment) Act, 1935, be taken into consideration.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: My point was whether section 13 was mandatory——

Mr. PRESIDENT: The only matter now before the House is the Court-fees (Bengal Second Amendment) Act, 1935, and is the hon'ble member raising any point of order on that motion?

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: If a point of order is raised, may I know if it can be left undecided?

Mr. PRESIDENT: The President rules that it is not a point of order and he has every right to say that it is not a point of order.

Mr. LALIT CHANDRA DAS: Does this arise out of the ruling that has been given?

Mr. PRESIDENT: I rule that it is not a point of order. Mr. H. P. Poddar raised a point about the Court-fees Act.

The Hon'ble Mr. NALINI RANJAN SARKER: It is not a succession certificate duty, but it is court-fee which is paid for any certificate. It has got nothing to do with succession.

Mr. PRESIDENT: So far as I understood his point, he wanted to say that it came under article 56 of List No. 1 of the 7th Schedule of the Government of India Act, 1935, in respect of succession of property and your reply is that it is not a duty on succession of property.

The Hon'ble Mr. NALINI RANJAN SARKER: It is for a certificate of succession: everybody has got to pay succession duty, but this is optional.

Mr. HUMAYUN KABIR: You have not given your decision on the point of order raised. You made your decision that it would be decided by the House, but after the voting is over, you are to announce whether you have accepted the opinion of the House; that announcement has not come from you yet.

Mr. PRESIDENT: I accept the decision of the House.

Mr. H. P. PODDAR: My point is that the duty contemplated under that Act comes under the non-agricultural heading which is a federal subject; so it cannot be raised in the Council.

Mr. PRESIDENT: The Hon'ble Finance Minister says that it is not a duty on succession. His contention is that it is court fee and he says that in cases where the properties are left intestate, no will or probate is necessary. When a property is naturally inherited, a person is not required to go to court to pay any duty. Unlike in England where there are duties on succession, or inheritance duty, here in India there is no such duty on succession to property.

The Hon'ble Mr. NALINI RANJAN SARKER: It is only for the collection of debt.

Mr. LALIT CHANDRA DAS: Now that the Bill is before the House, may I rise on a point of order?

Mr. PRESIDENT: It is the Court-fees Amendment Bill which is before the House.

Mr. LALIT CHANDRA DAS: And the Stamp Act too——

Mr. PRESIDENT: Stamp Act will be taken up later on.

As to the point raised by Mr. H. P. Poddar, I find in List II of Schedule VII of the Government of India Act, 1935, which is exclusively a Provincial List, it is provided that public order (but not including the use of His Majesty's naval, military or air forces in aid of the civil power), the administration of justice, constitution and organisation of all courts, except the Federal Court and the fees taken therein are included in the exclusive Provincial List. So I do not think there is any substance in your contention.

There is a further point of order raised by Mr. Humayun Kabir about the Indian Stamp (Bengal Amendment) Act, 1935, on the bill of lading. I should like to hear what the Finance Minister has to say on that point.

Mr. NARESH NATH MOOKERJEE: Are we to take it, Sir, that you will not allow any member of this House to raise any point of order even on a subsequent bill?

Mr. PRESIDENT: Certainly, I shall allow.

The Hon'ble Mr. NALINI RANJAN SARKER: There is some difference between the Electricity Duty Bill and the Indian Stamp (Bengal Amendment) Bill. In that the whole question of duty on electricity was challenged as an excise duty, but in the same bill it is only one item out of about fourteen or fifteen in the bill of lading. I admit that that item belongs to the Federal List. But I want to know whether Sir James Grigg's Bill will be taken notice of. If it is taken notice of from the 1st April, to that extent our Bill so far as bill of lading is concerned, will have no effect. Under section 143 read with clause (3) of the provisional order, we can go up to 1939. What I want to bring to your notice is that if Sir James Grigg's Bill is passed, the bill of lading ceases to have any operation in our Act and this would be omitted in the Amending Bengal Code which would be introduced during the next session.

Mr. PRESIDENT: A point of order has been raised that the bill of lading which is included in one of the items in the present Bill comes directly under item 57 of the exclusively Federal List and it has also been excluded definitely, under Article 51 of List II which runs thus: "the rate of stamp duty in respect of documents other than those specified in the provisions of List I with regard to rates of stamp duty." So it is absolutely clear that the levy of any duty on bill of lading is *ultra vires* of this Legislature. What is your reply to this point? I find the Government of India also are legislating for raising the rate on the bill of lading on the authority that it is exclusively a matter under

their jurisdiction as will appear from the *Gazette of India* of February 19th. Under clause (*4*), sub-clause (*2*) (*b*), it is proposed that under article 14 which relates to "bill of lading" for the entry "four annas" in the second column "eight annas" shall be substituted. So it seems that the Federal Legislature is in seisin of this particular item in this Bill. What is your answer to that question?

The Hon'ble Mr. NALINI RANJAN SARKER: My answer is as I have said under section 143 (*2*) read with paragraph 3 of the India and Burma (Transitory Provisions) Order, 1937, we are competent to legislate up to 1939, but if in the meantime Sir James Grigg's Bill is passed, so far as the bill of lading is concerned, this item in our Bill will be dead. There will be no effect as from the 1st April. So far as the bill of lading is concerned, it is one of the items out of 14 or 15 which will be operative up to 1939.

Mr. PRESIDENT: I find that the Government of India have introduced a Bill, *i.e.*, the Legislative Assembly Bill I of 1938. It has already been introduced and as such they are in seisin in this matter of bill of lading and as I find that it is in List I which is exclusively a Federal List, this House has no jurisdiction to legislate on this matter, particularly after the introduction of the Bill in the Central Legislature, covering this item. So I rule that this item is *ultra vires*. Unless Government see their way to omit this portion of their Bill, the whole Stamp Bill will be *ultra vires* of this Legislature.

The Hon'ble Mr. NALINI RANJAN SARKER: I am prepared to withdraw it.

Mr. PRESIDENT: In the meantime I suggest that Government should accept my advice and omit that clause; there are two ways, in which Government can rectify, by addition of a proviso to the guiding clause, namely, clause 2 of this Bill or making an exception in the schedule itself. For the authority, for such procedure I quote from the Parliamentary Debates of the House of Commons, 1922, Volume 159. There it is held that "if any member wishes to amend either of the schedules he must do so by way of addition of a proviso to clause 1." There clause 1 was the guiding section. But there is also another alternative that was adopted in other cases. One of the cases I refer to is from the Parliamentary Debates Series, page 499. After the words "whole Act" insert the words "except section 3 thereof". Thus there are two ways that obtain in British Houses of Parliament by which they exclude some of the sub-sections; but we have still some difficulty because schedule in the proposed Bill has been prepared in a way different from the schedule in the British Acts (*vide* Law Reports Public General Acts) where there is one heading "Sections and Chapters in the

Schedule", second heading—"Short title" and the third—"how far continued" and the fourth—"the Amending Act". In the third heading—"how far continued"—they always say "the whole Act" or "this section" or that section. So any particular sections can easily be omitted by an amendment, but in the present Bill it would be advisable to insert a proviso in the guiding clause omitting article 14 about the bill of lading from the purview of the Bill.

The Hon'ble Mr. NALINI RANJAN SARKER: I accept your suggestion and I will do that in proper time.

Mr. NAZIRUDDIN AHMAD: May I submit a way out of the difficulty, Sir?

The Hon'ble Mr. NALINI RANJAN SARKER: But I accept your suggestion, Sir, and therefore no further way out of the difficulty is necessary.

Mr. NARESH NATH MOOKERJEE: Is Mr. Naziruddin Ahmad advising Mr. President?

Mr. PRESIDENT: Chair always welcomes advice from the hon'ble members.

Mr. NAZIRUDDIN AHMAD: We are extremely grateful to you, Sir. You have always shown that you are open to conviction up to the last moment. But the position is that there has been some difficulty and this difficulty has been created by the fact that the Bill has been introduced, but I submit that under clause 2 of section 143——

Mr. PRESIDENT: Order, order. I have given my ruling so far as that point is concerned.

Mr. NAZIRUDDIN AHMAD: I was submitting, Sir, that the position is this: the section says that if provision to the contrary is made by the Federal Assembly, then——

Mr. PRESIDENT: Order, order. My ruling is final.

The Hon'ble Mr. NALINI RANJAN SARKER: Besides that, as I have already stated, I accept your advice.

Mr. HUMAYUN KABIR: Sir, a new situation arises out of the acceptance by the Hon'ble Finance Minister of a definite amendment

to the Indian Stamp (Bengal Amendment) Act and, therefore, will it be a continuing Act as has been suggested before? I would also like you to consider this new situation in connection with the other point raised by the Maharaja of Santosh when he raised this question on the previous day. You have not yet given your ruling on that—whether this Bill is an amending Bill or a continuing Bill.

Mr. PRESIDENT: As I have already given my ruling that I shall allow amendments purporting to omit any section or sub-section of the Acts in the schedule of the Bill, but not to amend particular sections by additions or alteration. Of course it will be within the rights of this House to limit the duration of the Bill, because that will be restricting the scope of the Bill and all the amendments, of which notices have been given about restricting the period to one year, two years or three years, will be in order.

The Hon'ble Mr. NALINI RANJAN SARKER: May we now come to the clauses, Sir?

Mr. HUMAYUN KABIR: May I ask for some information from you, Sir? Was it implied by your ruling yesterday that this Bill could not be a permanent Bill but would be valid only up to 31st March, 1939? Was this implied by your ruling of yesterday?

Mr. PRESIDENT: Referring to the Parliamentary Debates I find there are two kinds of Bills—(1) the Expiring Laws Bill: (2) Expiring Laws (Continuance) Bill—the latter merely provides to continue a Bill but does not make the Bill permanent while the former, ordinarily, in two separate schedules makes provision for one set of Acts to be permanent while for the other set of Acts only to be temporary for a definite period. It will be for this House to decide what procedure should be adopted in our case. We are to create a convention and settle our procedure. I therefore say that, as I have already ruled, it will be within the power of this House to limit the period of duration of the Bill, because I hold that the House has the right to restrict the scope of the Bill. The Bill, as introduced, is intended to be permanent. I hold that it will be fully within the competence of this House to decide that the Bill will continue for one, two or three years.

Mr. HAMIDUL HUQ CHOWDHURY: In that case, Sir, it will not be an Expiring Laws Bill but an Expiring Laws (Continuance) Bill.

Mr. PRESIDENT: No, it is not an Expiring Laws (Continuance) Bill but an Expiring Laws Bill: that is the distinction between the two.

Mr. NAZIRUDDIN AHMAD: If in the case of the Expiring Laws Bill, the Bill may be continued for two years, then that would certainly make it a "Continuance" Bill!

Mr. PRESIDENT: Well, that point will come up when we come to the clauses. Mr. Hamidul Huq Chowdhury is now to move his amendment.

The Hon'ble Mr. NALINI RANJAN SARKER: I think, Sir, that Mr. Lalit Chandra Das' amendment No. 4 should be taken up first.

Mr. PRESIDENT: That amendment is on the clauses, I should like to finish the schedule first.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I beg to move that in clause 2—

> after the words "in force" the words "for a further period of one year from the date on which they are due to expire, in 1938", after the words "such provisions" the words "to the contrary"——

Mr. PRESIDENT: Order, order. As I have said, I shall now take up the amendments to the schedule first.

Mr. HAMIDUL HUQ CHOWDHURY: I beg your pardon, Sir. Perhaps I might then move my amendment No. 10 which deals with the schedule.

Mr. PRESIDENT: That is consequential. You can move it later on.

Mr. NUR AHAMED: Sir, as the Hon'ble Minister in charge of the Bill has given the House a definite assurance that the money raised by the proposed taxation will be spent on the nation-building departments, I do not like to move the amendment standing in my name.

Mr. PRESIDENT: The question is that the schedule stand part of the Bill.

The House divided:—

AYES—34.

Ahmad, Mr. Naziruddin.
Ahmed, Mr. Meshahuddin.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Chowdhury, Mr. Rezzaqul Haider.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Elahi, Khan Nahadur S. Fazal.
Esmail, Khwaja Muhammad.
Haider, Nawabzada Kamruddin.
Hamida Momin, Begum.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Mohamed.
Huq, Mr. Syed Muhammad Ghaziul.
Ibrahim, Khan Bahadur Maulvi Mohammad.
dan, Khan Bahadur Shaikh Muhammad.
Khan, Khan Bahadur Muhammad Asaf.
Khan, Maulana Muhammad Akram.
Lamb, Mr. T.
McFarlane, Mr. J.
Molla, Khan Sahib Subidali.
Rahman, Khan Bahadur Ataur.
Rahman, Mr. Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Ray, Mr. Nagendra Narayan.
Roy, Rai Bahadur Radhica Bhusan.
Roy Chowdhury, Mr. Krishna Chandra.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Saileswar.
Stokes, Mr. H. G.
Wilmer, Mr. D. H.

NOES—11.

Chakraverti, Mr. Shrish Chandra.
Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Datta, Mr. Narendra Chandra.
Dutta, Mr. Kamini Kumar.
Seswami, Mr. Kanai Lal.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Pal Choudhury, Mr. Rasajit.
Poddar, Mr. H. P.
Sanyal, Mr. Sachindra Narayan.

The motion was adopted.

Mr. NARENDRA CHANDRA DATTA: I beg to move that in clause 2 of the Bill—

(*a*) after the words "in force" in line 3, the words "for one year" be inserted; and

(*b*) all the words beginning with "and such provisions" up to the end of the clause, be omitted.

Sir, you, as President, have stated in your decision on the point of order that it is a very doubtful point as to whether this House has got the power to legislate so far as this Bill is concerned. However, the House has decided by a majority of votes that it can. At any rate it is a point which is not free from doubts. And my submission is that instead of making it permanent, you give it a life of one year only, and let us in the meantime see how the matter stands. There is also the possibility of suits being filed, and if litigations crop up, the electric companies and other bodies and Government will have to bear expenses for them. So my submission is, let it be for one year only for the

present, and after it has been in existence for one year, there may be no objection from the public or from any other quarter.

Mr. PRESIDENT: The question before the House is that in clause 2 of the Bill—

(*a*) after the words "in force" in line 3, the words "for one year" be inserted; and

(*b*) all the words beginning with "and such provisions" up to the end of the clause be omitted.

The motion was lost.

Mr. HAMIDUL HUQ CHOWDHUDY: Sir, I beg to move that in clause 2—

(*a*) after the words "in force" the words "for a further period of one year from the date on which they are due to expire in 1938", after the words "such provisions" the words "to the contrary", after the words "limit the period" the words "up to 1938" be inserted; and

(*b*) for the word "repealed" the words "accordingly modified" be substituted.

Sir, at the outset I must make my position clear. I have been holding this opinion that this House has got the power to tax the subjects which have been covered by this Act. Also, Sir, I have been of the opinion that it is necessary for us to extend our scope of taxing, and these are the subjects on which reasonable taxes can be and should be imposed. But what I am pleading for is this that by my amendment I am asking the House to extend its own power and to extend its own right, and also to establish a precedent which is well established in many other legislative bodies like ours. Take, for example, the Central Legislature; they have a number of annual finance bills, namely, the income-tax, the salt duties and postal rates. They come up every year and they expire every year. The principle underlying this is that Government, when it comes before the House for the purpose of sanctioning certain expenditure, will be faced with the scrutiny by the House as regards the necessity for further imposition of taxes. The more the House will take to examine every item of Government's expenditure, the more the Government will also have to justify that the item of expenditure is so much necessary that they have to impose annually certain new taxes. That is the principle on which these annual finance bills are annually brought. There is a number of certain finance bills also in England. Therefore, Sir, I say that we should start with creating a precedent like this. It is not a question of the Government

versus the Opposition; as the Government of to-day may not be the Government of to-morrow; but it is a question of the rights of the Legislature which is to see that the functions of the Government are more properly discharged. That is the general question, but what about the question of the rights of this House? Yesterday, Ministers were arguing that some members here were trying to minimize the power of the House, and we have heard in the debate on the budget from every corner of the House a certain sort of lamentation that we have got no powers to control the budget. But this is an opportunity which you have got by which you can keep in your hands the right to control the budget, and a big item of the Government's annual income has to be controlled and checked by you. Therefore, you will be directly controlling the budget. Now that you have got the chance to keep control over the budget, if you say "no" to it, then I should say that what you have said so often during the discussion on budget, that had you the power to control it, you would have given a better shape to it, will be regarded as an insincere and empty profession. Therefore, I will ask through you, Sir, the members of this House to take courage in their hands and say that they will keep reserved to this House a part of the budget, namely, certain items of Government's annual income. Every year they will be able to check the Government's budget. Certain questions have been raised that if we do not have permanent income, we cannot raise loans. But I should say Government have got no loan programme, and the present Government will have none. (Question!) Even if there is a question of raising a loan, it will be a false cry, because the Central Government has, as I have said, annual finance bills. They have never been in any difficulty to raise any loan. So is the Government in England. The fact that we will have every year only twenty-eight lakhs of rupees to be renewed year after year, will not prevent us from going to the market and raising any loan. And secondly, in raising a loan generally none of our annual revenues are mortgaged. Therefore, there is no question of linking up this provision, namely, providing for annual renewal within raising loan. The loans are raised on the general credit of the Government. Therefore, Sir, I will ask this House not to miss this opportunity of keeping some part of the budget in their own hands and then control the expenditure of the Government. Members of the House, Sir, are paid, and so are expected to discharge their duties more competently, and you can control the Government's administration by controlling its budget. Therefore, Sir, you will be discharging the duties more efficiently if you keep control over the Government's finances.

With these words, Sir, I will again impress upon the House that it will be in the fitness of things that apart from the general questions, this House should insist upon extending its rights as far as possible for the good of the administration of the province.

Mr. PRESIDENT: Motion moved that in clause 2—

(*a*) after the words "in force" the words "for a further period of one year from the date on which they are due to expire, in 1938", after the words "such provisions" the words "to the contrary", after the words "limit the periods" the words "up to 1938" be inserted; and

(*b*) for the word "repealed" the words "accordingly modified" be substituted.

Mr. HUMAYUN KABIR: Mr. President, Sir, in supporting the amendment moved by Mr. Hamidul Huq Chowdhury, I would like to add one or two points to those which have already been placed before the House for its consideration. The right of taxation is a right about which all representative Houses are jealous, and no House wants to give away the power of legislation in respect of taxation for ever to any Government. This Bill which seeks to change the character of the Acts which were in force before, and wants to make these taxes permanent, is taking away from the province of our criticism year after year a proportion of the revenues on which the Government might depend in order to carry out its administrative functions. Sir, it has already been suggested that we in this House do not get the opportunity of exercising sufficient control over the administration of the Government. Here is an opportunity which we can avail of for exercising such control. I would also submit that this Bill offers us an opportunity where this can be done more conveniently than in any other measure, for, the amount of money involved is not so large that it cripples the activities of the Government entirely. On the other hand, it establishes the convention that the Legislature will review, year after year, the financial position of the country, and the financial demand of the Government and examine whether the Government can claim any additional imposition in view of the programmes which they might have adopted. Sir, it has also to be remembered that a tax once imposed, is very rarely repealed. We know the history of taxation in other countries. When the income-tax was first imposed, it was said that it was a temporary measure. To-day, Sir, it forms one of the major portions of the revenues of Great Britain and many other countries of Europe. Similarly, Sir, with regard to other taxation measures. Here also, there is nothing wrong in thinking that once these laws come in the Statute Book, they are not to be repealed. Once a taxation measure is imposed, it has the general tendency of becoming a permanent feature of the revenue itself of the Government. If that be the case, the Government need not fear that at any time they may be deprived of these revenues. All that will happen is that the Government will have to give an account

of their stewardship from year to year. That is the point at issue. That is the principle which Mr. Hamidul Huq Chowdhury also wants to establish by his amendment that the Government will come every year, and give an account of its stewardship during the year, and justify these additional taxes in view of what they have actually achieved in the way of programmes and policies. And, Sir, it has also been suggested that it might hamper in any way the activities of the Government in taking fresh loans. I do not claim to know the mind of this Government. I do not know whether they have under contemplation the floating of any loans. Therefore, I shall not make any comment on that point, but this I would say, that the question of borrowing depends upon the general credit of the Government. And to-day the credit of the Government stands high with a huge surplus and with a stable Ministry (Question!) They can easily afford to undertake any loan operations that may be necessary for the improvement of the condition of the province. Therefore, Sir, that argument also will not hold good and further, there is the consideration that in respect of this House particularly, we must have some control over the ways in which the money of this province is disposed of and since we do not have sufficient scope in other ways, here is a procedure by which we can establish our right of discussing the policy of Government and with these words I would commend this amendment to the acceptance of the House.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Mr. President, Sir, I rise to lend my whole-hearted support to the motion which the Deputy President has moved. Sir, I realise my responsibility in the matter. It is no easy thing for an outsider who is not in Government to say whether all the money that is made available to Government by these legislations is still required. But it is not in order to place the Government into a difficult position that I rise to give my support to the motion. The mover of the motion is also for the renewal of the Expiring Laws. But I am convinced, Sir, that it is not within the competence of the Hon'ble Finance Minister by means of a continuance Bill to alter the fundamental character of the Expiring Laws and convert them into permanent laws, although they are in reality temporary and emergency measures. That conviction has taken a deep root in my mind and from that conviction, I rise to support the motion which will keep this legislation alive only for one year. I rise to speak on this subject also because the Hon'ble Finance Minister has given some misdirection to the House and I am afraid that if those misdirections are not corrected, if they are not openly challenged on the floor of the House, they might influence the vote of the House. The Hon'ble Finance Minister has said that all the moneys which will flow into the coffers of the State through the operation of the laws

in question would be spent for the nation-building departments. Well, if my interpretation of sub-section (*2*) of section 143 is right, he can have no other option but to apply all the moneys that will accrue from those sources, to the same purposes to which they are now being devoted. I better read out the relevant lines from the Act for your consideration, Sir, and for the consideration of the House. Sub-section (*2*) of section 143 distinctly says—

"Continue to be levied and will be applied to the same purposes."

Now, where is the scope for the Hon'ble Finance Minister to divert any money from those sources to other channels? If he is unable to do that, let him stand and say that frankly. But let the House be not misled. Let him stand up and say that it is within his power to spend the money as he likes.

The Hon'ble Mr. NALINI RANJAN SARKER: You finish and then I shall stand up.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Yes, not till I sit down; I hope the Hon'ble Minister will have patience to listen to me till then. I think, Sir, it is a mere bluff, a huge bluff. While he has not given any scheme, while he has no programme, and when he has placed no plans before the House, I am afraid it will not be safe to place any reliance on his casual remarks that the whole money that will be collected by these measures will be spent on nation-building departments alone. What is the guarantee that it is not a mere eye-wash? While he will make a reply to the various criticisms that the House has offered, I charge him to convince us that he has a programme to guide him. Let him take the House into his confidence and state in unequivocal terms the definite purposes for which he is going to spend that money. If those objects catch the imagination of this House and appear to be such as will catch the imagination of the people beyond the walls of this House, I shall certainly give him my whole-hearted support. But I make it once more clear that I am not opposing the Bill. I simply hold that as the measure is one of continuance, it must be for one year only—for obvious reasons. It can by no means go beyond the 1st of April, 1939. It cannot give a longer lease of life to the Expiring Laws than what is provided for in the Transitory Provisions of the Order in Council. It will be illegal to go beyond that. It is very unfortunate that Government thought it fit to propose to change the character of these Expiring Laws to make them permanent. I think I voice the sentiment of this House when I say that I am definitely opposed to the idea of putting these laws on the Statute Book for all times to come. Let them be temporary measures, as they are now. I do not wish to upset the plans of Government. I want time to scrutinise them and

if possible to get into touch with the policy of Government in respect of them. We must be given an opportunity to formulate in our mind a definite opinion as to the exact nature and utility of the various purposes on which they wish to spend the money. If conditions are changed by legislations in the Centre and we find that it is essential that Government should have the money covered by the laws in question, there will be no objection to renewing those laws again and again. On the other hand, if we find that the money thus raised is being spent on luxury or in paying fat salaries and allowances to pampered pets of Government, we shall certainly do our level best to turn down those measures when they are brought before this House (Hear, hear).

The Hon'ble Mr. NALINI RANJAN SARKER: Mr. President, Sir, I realise that I have proposed to impose duties only on commodities and court-fees and not on the words of the people; otherwise, if I had done it, the Maharaja Bahadur would not have expressed so strongly, but I know, Sir, when disappointment comes, bitterness grows. He said that I have bluffed the House. With all sincerity I can tell you that I have not done so. This money is entirely meant for nation-building departments (Hear, hear). The Maharaja Bahadur says that I am not empowered under section 143(*2*) to levy the taxes in question. As you know, the President has not ruled that we are getting money on that section but even if it is so that we are getting money under sub-section (*2*), it can be used for the purpose of the province which is made clear in this section but which the Maharaja Bahadur has not placed before you.

Mr. RANAJIT PAL CHOUDHURY: What is that section?

The Hon'ble Mr. NALINI RANJAN SARKER: It is this "Any taxes, duties, cesses or fees which, immediately before the commencement of Part III of this Act, were being lawfully levied by any Provincial Government, municipality or other local authority or any other such body for the purposes of the province, municipality, etc., shall be used for that purpose." I therefore say that the money which I am demanding from this House, will be utilised for the purposes of this province. The Maharaja Bahadur has stated that I have no programme. As I have stated in this House, not only in this House but in the Lower House also—we want money to supplement the Education Cess we have imposed for Primary Education, we want money for the establishment of dispensaries, relief centres, medical centres in unions and groups of villages for which about forty-five lakhs of rupees will be necessary. We want money for the removal of the water scarcity of the rural population. That will cost us about a crore of rupees. So far as the money from these Acts is concerned, it is absolutely necessary. The Maharaja Bahadur himself in his budget

speech gave a catalogue of things which he wanted Government to provide and which would cost crores and crores of rupees. If any member of this House goes away with the impression that Government do not require any money at all, that they have got plenty of funds at their disposal, and that money is wanted for fat salaries only, then I would tell him that he is absolutely mistaken. This money will not be spent on fat salaries. The existing salaries are not fat in most cases, and we are trying to reduce the amount of such fat salaries as are within our control. The Maharaja Bahadur knows very well that these salaries cannot be cut down, *e.g.*, the salary which he himself drew as President of the old Council could not be reduced except with great difficulty. (Laughter.)

Now, I come to the point raised by my friend Mr. Hamidul Huq Chowdhury. He wants that taxes should be raised year by year as is done by the Central Government. I say, Sir, that that analogy does not hold good here. The Central Government have got certain fixed expenditures. They have no constructive programme so to say. In our case, money is required from year to year for everything which we want to build up, but in the Federal Government they require money for the Army and some other Services. They have not got any nation-building department in the strict sense of the term. Every Provincial Government require money in order to initiate new schemes. After twenty-five years when they have settled down and when we have got all our departments into working order, a convention may spring up for raising money by taxation from year to year, but at the initial stages of Provincial Autonomy that is not possible. I may submit, Sir, that none of the Provincial Governments are raising taxes year by year. As I said yesterday, the Bombay Government have made the electricity duty a permanent tax. The Madras Government, also, have passed a law for imposing taxes on the sale of cloth, and that, too, has been made permanent. As it is, it is not the practice with Provincial Governments to impose taxation year by year. If we are to follow that principle, it will only hamper the extension of our development activities.

With these few words, Sir, I appeal to this House to pass this Bill into law without any amendment.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, may I put a short question to the Hon'ble Finance Minister? May I know why he dropped the word "same" before the word "purposes" when he read out section 143(2) of the Government of India Act?

The Hon'ble Mr. NALINI RANJAN SARKER: I did not drop it. But what are the "purposes" of a Provincial Government? It is to provide for education, sanitation and other nation-building subjects.

Mr. HAMIDUL HUQ CHOWDHURY: May I put another question, Sir? Before these Acts were passed into law, were Government inconvenienced in any way as regards providing funds for the nation-building departments?

The Hon'ble Mr. NALINI RANJAN SARKER: Of course, they were. They imposed these taxes only for reducing the gap between revenue and expenditure.

Mr. HAMIDUL HUQ CHOWDHURY: Whenever they wanted to raise any loan did they feel any difficulty?

The Hon'ble Mr. NALINI RANJAN SARKER: They did not go in for any loan programme.

Mr. KADER BAKSH: Sir, when I was a student I read in some Persian text-book "*Paraganda roozi paraganda Del*", *i.e.*, a man without any income is distracted in mind. So, Sir, if Government are not given any scope for imposing taxation and if Government are not confident about their income, they cannot embark upon a nation-building programme. Therefore, Sir, if we do not give them an opportunity of making these taxations permanent, they cannot think of any beneficent schemes for the nation-building departments. These taxations will not bring in much money: they will fetch only about Rs. 26,00,000. If we are not prepared to spend this small amount for nation-building projects, then it is no use for us coming here and talking about nation-building activities.

The Maharaja Bahadur in his budget speech mentioned various items on which money could be, and ought to be, spent. But if he really wants the Hon'ble Finance Minister to take up even a few of his suggestions, then he must allow Government to raise taxes; otherwise, Government will have to launch on schemes without knowing beforehand what income they have got, and it may so happen that many of the schemes will be still-born.

Therefore, Sir, I oppose the amendment of my esteemed friend Mr. Hamidul Huq Chowdhury.

Mr. NAZIRUDDIN AHMAD: Sir, I would like to say only one word. The Maharaja Bahadur of Santosh has said that there was some misrepresentation on the part of the Hon'ble Finance Minister when he interpreted the law. This is an astounding proposition. The law, is absolutely clear on this point, viz., that the taxes which "were being lawfully levied.....for the *purposes of a Province*", "may..... continue to be levied and to be applied to the *same purposes*", that is, the "purposes of the Province". I submit, Sir, that the "purposes

of a Province" certainly include expenditure on nation-building departments. There is no question, therefore, that the interpretation was absolutely correct.

Mr. PRESIDENT: The question before the House is that in clause 2—

(*a*) after the words "in force" the words "for a further period of one year from the date on which they are due to expire, in 1938", after the words "such provisions" the words "to the contrary", after the words "limit the periods" the words "up to 1938" be inserted; and

(*b*) for the word "repealed" the words "accordingly modified" be substituted.

Mr. NAZIRUDDIN AHMAD: May I, Sir, draw your attention to an irregular state of affairs? I find that Mr. Humayun Kabir has crossed the floor to our side for the purpose of canvassing. I know full well that he has acted in a perfectly *bona fide* manner!

Mr. HUMAYUN KABIR: Sir, I take very grave objection to the remark of my friend Mr. Naziruddin Ahmad. I submit that I have every right to go to any side of the House and persuade members of this House to vote with me.

Mr. NAZIRUDDIN AHMAD: I never disputed that——

Mr. PRESIDENT: Order, order. Canvassing within the House will not be encouraged (Hear, hear).

The question before the House is that in clause 2—

(*a*) after the words "in force" the words "for a further period of one year from the date on which they are due to expire, in 1938", after the words "such provisions" the words "to the contrary", after the words "limit the periods" the words "up to 1938" be inserted; and

(*b*) for the word "repealed" the words "accordingly modified" be substituted.

Several members: Aye.

Several members: No.

Mr. PRESIDENT: Ayes have it.

Mr. MESBAHUDDIN AHMED: Noes have it.

Mr. PRESIDENT: The House will now divide.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, may I draw your attention to one thing? You have asked the House to divide, but the Whip of the Ministerial Party challenged your decision and shouted "Noes have it". Since he has challenged your decision, I submit, Sir, that he is precluded from voting. I remember that on a similar occasion, when I was President of the old Bengal Legislative Council, I gave my decision in favour of the Swarajya Party, but the late Mr. J. M. Sen Gupta challenged my decision by claiming a division, and he was on that account precluded from voting.

Mr. MESBAHUDDIN AHMED: I submit, Sir, that the Maharaja has not heard me right.

Mr. PRESIDENT: Order, order. Members should file into the division lobbies as quickly as possible as the doors will be closed shortly.

The House divided:—

AYES—20.

Bose, Rai Bahadur Manmatha Nath.
Chakraverti, Mr. Shrish Chandra.
Chaudhury, Mr. Meazzemali.
Chowdhury, Mr. Hamidul Huq.
Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Datta, Mr. Narendra Chandra.
Dutta, Mr. Kamini Kumar.
Goswami, Mr. Kanai Lal.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Mookorjee, Mr. Naresh Nath.
Mukherji, Rai Bahadur Satis Chandra.
Pal Choudhury, Mr. Ranajit.
Poddar, Mr. H. P.
Ray Chowdhury, Maharaja Sir Manmatha Nath, of Santosh.
Sanyal, Mr. Sachindra Narayan.
Sarkar, Rai Sahib Indu Bhusan.
Sen, Rai Sahib Jatindra Mohan.
Sinha, Rai Bahadur Surendra Narayan.

NOES—33.

Abmad, Mr. Naziruddin.
Ahmed, Mr. Mesbahuddin.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Humayun Reza.
Chowdhury, Mr. Rezzaqui Haider.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Ellahi, Khan Bahadur S. Fazal.
Esmail, Khwaja Muhammad.
Haider, Nawabzada Kamruddin.
Hossain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Mohamad.
Huq, Mr. Syed Muhammad Ghaziul.
Ibrahim, Khan Bahadur Maulvi Mohammad.
Jan, Khan Bahadur Shaikh Muhammad.
Khan, Khan Bahadur Muhammad Asaf.
Khan, Maulana Muhammad Akram.
Lamb, Mr. T.
McFarlane, Mr. J.
Momin, Begum Hamida.
Molla, Khan Sahib Subidali.
Rahman, Khan Bahadur Ataur.
Rahman, Mr. Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Roy, Rai Bahadur Radhica Bhusan.
Roy Chowdhury, Mr. Krishna Chandra.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Satteswar.
Stokes, Mr. H. G.
Wilmer, Mr. D. H.

The motion was negatived.

The Hon'ble Mr. NALINI RANJAN SARKER: I want to move a short amendment—after clause 2 the following may be added—"provided that nothing in this Act shall affect the amount of stamp duty chargeable on a bill of lading"——

Mr. PRESIDENT: May I suggest that as the main motion has been moved by the Hon'ble Finance Minister, the correct procedure would be that the amendment should be moved by some other member.

Mr. NAZIRUDDIN AHMAD: With your kind permission, Sir, I beg to move the following amendment—that after clause 2 the following proviso be added, namely, "provided that nothing in this Act shall affect the amount of stamp duty chargeable on a bill of lading". This, I submit, is a consequential amendment and this is why I think it is admissible at this stage.

Mr. PRESIDENT: Will the mover please explain how this amendment is in order?

Mr. NAZIRUDDIN AHMAD: You have already ruled that on account of a Bill being introduced in the Central Legislature, we have no further jurisdiction to deal with the matter——

Mr. PRESIDENT: Apart from that, I hold that this local legislature is not competent to legislate about the bill of lading and so it is out of order; unless that item is taken out, I shall be compelled to hold that the whole Act is out of order.

Mr. NAZIRUDDIN AHMAD: I submit we are not legislating——

Mr. PRESIDENT: I shall not allow any questioning of my ruling. Article 14 relating to bill of lading must be specifically taken out of the Bill to bring it within the jurisdiction of the Provincial Legislature.

Mr. KADER BAKSH: May I move another amendment to the said schedule—"provided that item No. 14 of the bill of lading and of the entries relating thereto under the said item in schedule 1A of the Indian Stamp (Bengal Amendment) Act shall not continue to be in force."

Mr. HUMAYUN KABIR: There is no such thing as item No. 14 in the Indian Stamp (Bengal Amendment) Act, 1935. The reference is to section 7(7). Here the proposal that item No. 14 be dropped leads us nowhere at all.

Mr. NARESH NATH MOOKERJEE: I rise on a point of order, Sir. You yourself have ruled that it will not be in order to amend any section of the Act under the schedule except for exclusion. I do not see how——

Mr. PRESIDENT: I suggest that it should be excluded.

The Hon'ble Mr. NALINI RANJAN SARKER: He has said that it will not be operated.

Mr. RANAJIT PAL CHOUDHURY: Sir, private conversation is going on, but there is a rule to the effect that no private conversation is allowed.

Mr. HUMAYUN KABIR: May I ask you to adjourn the House for a few minutes while the Government consult their Intelligence Section? Now there is no business here; only private talk is going on.

Mr. PRESIDENT: The hon'ble member knows how difficult it is to draft suitable amendments to particular sections.

Mr. MESBAHUDDIN AHMED: The hon'ble member should not cut jokes about it.

Mr. NARENDRA CHANDRA DATTA: I find that he is the twelfth man now in the Treasury Bench!

The Hon'ble Mr. NALINI RANJAN SARKER: I submit that the House be adjourned for ten minutes.

Mr. PRESIDENT: The House will now adjourn for fifteen minutes and will re-assemble at 4-05 p.m.

Adjournment.

(The House then adjourned for fifteen minutes.)

After adjournment.

Khan Bahadur M. SHAMSUZZOHA: I beg to move that to section 2 of the Bengal Expiring Laws Bill the following proviso be added:—

"Provided that sub-clause (7) of section 7 of the Indian Stamp (Bengal Amendment) Act, 1935, shall not continue after the 31st May, 1938."

Mr. NARESH NATH MOOKERJEE: This, I consider, is also actually an amendment to one of the clauses of the Bill and it is not an amending Act. It is a Continuance Act and as such, is this permissible under your ruling?

Mr. PRESIDENT: I have already referred to the following English decisions: I refer the hon'ble member to Parliamentary Debates (Commons) 1922, Volume 159, where, in a similar case the Chairman held that if any member wishes to amend either of the schedules, he

must do so by way of addition or a proviso to clause 1. That was the guiding clause in that particular Act. But amendment is done in the schedule by adding "except this section" or it is made by adding a proviso to the guiding clause as it is proposed to be done here. There are other instances. A similar case has also been reported in the Parliamentary Debates, 4th Series, page 483. There the amendment is proposed as I have said, by the insertion of the words "except this section in that particular heading in the schedule." These are the two methods.

Mr. HUMAYUN KABIR: The point which we raise is this: does this not make it an amending Bill because there is further alteration in the Indian Stamp (Bengal Amendment) Bill, 1935? The whole of the Act is sought to be continued with the exception of one particular sub-section. The addition to a sub-section is certainly an amendment. If that be so, will the other amendments which have been moved here to particular sections of this Act, come into operation?

Mr. PRESIDENT: It is not an amending Bill, but it is the continuance of an expiring Act.

Mr. HUMAYUN KABIR: It was an expiring Bill till this amendment has been moved. Now that it has been moved, if it is accepted, it will cease to be an expiring Bill but will become an amending Bill.

Mr. PRESIDENT: As I have said before, the references quoted are all from the Expiring Laws Bill.

Mr. NARESH NATH MOOKERJEE: As such, shall we not be allowed to move the amendments of which we have given notice?

Mr. PRESIDENT: I allowed all the amendments restricting the life of the Bill to a certain period of time, and those about the omission of specific clauses to be moved, but the hon'ble members who gave notices of those amendments were not willing to move them.

The question before the House is that the following proviso be added to clause (2), namely:—

> "Provided that clause (7) of section 7 of the Indian Stamp (Bengal Amendment) Act, 1935, shall not continue in force after the 31st May, 1938."

The question was agreed to.

Clause 1.

Mr. PRESIDENT: The question before the House is that clause 1 stand part of the Bill.

The question was agreed to.

Clause 2.

Mr. PRESIDENT: The question before the House is that clause 2 stand part of the Bill.

The question was agreed to.

Clause 3.

Mr. PRESIDENT: The question before the House is that clause 3 stand part of the Bill.

The question was agreed to.

Title and Preamble.

Mr. PRESIDENT: The question before the House is that the Title and Preamble be added to the Bill.

The question was agreed to.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, I beg to move that the Bengal Expiring Laws Bill, 1938, as settled in Council be passed.

Mr. PRESIDENT: Motion moved: that the Bengal Expiring Laws Bill, 1938, as settled in Council be passed.

Mr. LALIT CHANDRA DAS: Sir, I rise to oppose this motion that the Expiring Laws Bill be passed. I will not repeat the arguments that I placed before the House on Tuesday while opposing the motion of the Hon'ble Finance Minister that the consideration of this Bill be taken up. I will take rather a new point now. Sir, the Hon'ble Finance Minister thus observed on Tuesday: "under section 143 (*2*) read with paragraph 3 of the India and Burma (Transitory Provisions) Orders, the Government are competent, until legislation is passed by the Central Legislature to the contrary, to legislate for the continuance of any tax which the Government were lawfully levying till the 31st March, 1937, notwithstanding the fact that it came within the purview of the Federal List. When they so legislated, the tax would enforce itself by reason of their own legislation." Sir, this is the most important portion to which I beg to draw the attention of the hon'ble members, "by reason of their own legislation, up to 31st March, 1939, or any earlier date on which a Central Legislation to the contrary might come into force". That was the view of the Hon'ble Minister on Tuesday last, and yesterday, Sir, you were pleased to observe thus in giving your ruling: "Reply of the Finance Minister to my enquiry as to under what section of the statute or the order they could legislate, did not satisfy the Chair." Then, Sir you again observed on the provisions of section 143 of the Act and finally concluded by observing that

the Bill as it now stands, will be *ultra vires* of this Legislature, until its life is restricted to a period ending on the 1st of April, 1939, or until it can be proved that the duty on electricity does not come under the Federal List. That was your observation, Sir, namely, that it must be a temporary measure, that as a matter of fact this legislation could never be a permanent one, unless it could be proved that the duty on electricity does not come under an exclusively Federal List. Then, Sir, in making those observations, whether it comes under the Federal List, you concluded by saying that such a duty is an excise duty as contemplated in item No. 45 of List I of 7th Schedule. This is the clear finding by you that this Act comes clearly under item 45 of List I of the 7th Schedule. If that is so, then I respectfully submit that the operation of this Act cannot go beyond two years from the commencement of the time when the new Constitution came into being, that is, only for two years. Now, when a motion was moved by Mr. Hamidul Huq Chowdhury to the effect that it should be restricted to one year, the House divided, and of course the motion was lost. But now that the motion has been lost, it comes to this that the Bill is going to be made permanent. If that is so, that offends against section 143 (2) read with Order 3 of the India and Burma (Transitory Provisions) Orders, 1937, against what the Hon'ble Finance Minister himself stated on Tuesday, and also against what you, yourself, Sir, found only yesterday, particularly with reference to the point of law; I am of opinion that this Bill cannot be passed or made permanent. I will now, Sir, make one other observation with regard to what has passed between the Maharaja of Santosh and the Hon'ble Finance Minister. The Maharaja pointed out to the Finance Minister sub-section (2) of section 143 of the Government of India Act, 1935. Now, Sir, in pointing that out the Maharaja Bahadur said that as a matter of fact, there was nothing in the Act to restrict the revenue that would be obtained from the Bengal Expiring Laws for purposes of nation-building subjects. Of course we have got an assurance from the Finance Minister that these taxes will be used for the purpose of nation-building subjects, but I may observe that Mr. Sarker may come and Mr. Sarker may go and another Ministry may form itself; we may not be sure whether what has been stated by the Finance Minister will be carried out by a subsequent Ministry. If it could be provided in this statute that what would be raised from these taxation measures would be actually used for the purpose of nation-building subjects, then that would be a different matter. But the assurance that has been given by the Finance Minister may be observed in the breach, as such assurances have been observed in the breach previously. Next, the Maharaja of Santosh drew the attention of the Finance Minister to section 143 (2) of the Government of India Act, 1935, that runs thus: "any taxes, duties, cesses or fees which immediately before the commencement of Part III of this Act were being

lawfully levied by any Provincial Government, municipality or other local authority or body for the purposes of the province, etc., etc." Now, Sir, emphasis was put by the Finance Minister on the words "purposes of the province".

The purposes of the province may mean anything, may mean the employment of this tax for nation-building subjects or for the Ministers' pleasure trips to Darjeeling and other places. I say, Sir, there has not been any earmarking of the money to be levied under the Bengal Expiring Laws. Sir, the money to be raised from those measures will go to the Treasury of the Government as other monies and taxes so that there is no guarantee that this money will be actually used for the purpose of the nation-building subjects. If we take previous instances, what was done by the Government before? We know that as a matter of fact the money that was raised in the name of doing something for the good of the country was never used for that purpose. I draw the attention of the House to what was done by the Government when money was given to them from the Salt Import Duty. The Government of Bengal got a sum of Rs. 20 lakhs but did not spend a farthing for encouraging the salt industry in Bengal. When this money came, the intention of the Government was made clear that the money would be set apart for the purpose for which it was intended. But that was observed in the breach. Of course, I do not question the sincerity of purpose of the Hon'ble Finance Minister so far as his present intentions are concerned. The point for consideration is that when demands will come upon him one after another, what guarantee is there that this money will be actually used for nation-building subjects? What guarantee is there that the Hon'ble Mr. Sarker will be there for several years to see that this money is earmarked for nation-building subjects? As there is no provision in this Expiring Laws Bill to set apart the taxes for nation-building subjects, I suggest that this Expiring Laws Bill be not passed and be not continued.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: On a point of order, Sir. I draw your attention to section 69 of our Rules and Standing Orders. It is, an objection has been taken to this Bill being passed at the same sitting, having regard to the fact that it has been amended by the Hon'ble Finance Minister or by somebody else on his behalf.

The Hon'ble Mr. NALINI RANJAN SARKER: Not on my behalf.

Maharaja Sir MANMATHANATH RAY CHOWDHURY, of Santosh: If you deny that, I must say, woe to the gentleman who did it for you. But nevertheless, the Bill has been amended and under the section I have cited, unless you, Sir, exercise your power to suspend the Standing Order, it cannot be passed at the same sitting and shall

have to be brought before the House at a subsequent sitting when it may be passed with or without further amendment.

Mr. BANKIM CHANDRA DATTA: Sir, it is a pity that the Government in their zeal or rather I should say, in their *zid*, have not taken the warning given by you, when you gave the ruling yesterday. You made it perfectly clear the risk the Government was running into by rushing this Bill through in this way. Sir, you have said that the Bill, as it stands, is *ultra vires* of this Legislature. You have also said that it will lead to litigation. I think, it is up to the Government to take the warning and to really review their own position. The position that they have taken suggests that they do not want to take any heed whatsoever, whether it comes from you as President or from the other members of the House. They are bent upon carrying on, in spite of protests, no matter from which side it comes. Surely this is not a laudable attitude to take up. There are hundreds of ways in which a particular Act can be piloted in this House. But surely, if one goes into the history of this House, one would fail to find an occasion like this. Sir, I do not want to take the time of this House at this fag-end of the day, but I would surely enter the protest of this side of the House to the way in which this Bill has been piloted in this House by Government.

Mr. KAMINI KUMAR DUTTA: Sir, the matter has been thoroughly discussed and I would not enter into any detail. But I think it will be my duty to place one very serious aspect of this Bill being actually enacted into an Act. This aspect is this, that perhaps it may be the impression of some that if an Act is *ultra vires*, it is only the Federal Court before whom this question can be raised. But as one having some experience of law, I may say that if an Act that is *ultra vires* of the Legislature, be attempted to be put into operation, every civil court will have the right to question whether the Act is a proper one, and whether the House has jurisdiction to pass that Act. Of course, to have a declaration that the Act is *ultra vires*, recourse may be had to the Federal Court. But in executing the Act, every civil court in the Empire has the right to question its validity and everyone who will be affected will have the right to question the operation of the Act. So, Sir, I would appeal that before we pass this Act, knowing full well that simply passing an illegal measure into an Act will not make it law, we should not and we must not convert an apparently illegal measure into law and launch the country into a series of litigations.

Mr. PRESIDENT: The point that has been raised by the Leader of the Progressive Party is about section 69 (*2*) of the Rules and Standing Orders. I have considered seriously the objection raised by

such an important member of the House but as the rule has been discussed for so many days, and the Bill has come here as settled in the Lower House under sub-section (2), I suspend the Standing Order and permit it to be moved.

The Hon'ble Mr. NALINI RANJAN SARKER: If you want to finish this subject, Sir, I would only say that what Mr. Lalit Chandra Das has said, has no force. So far as the Electricity Bill is concerned, my contention is based on section 143 (2) of the Government of India Act. I say, it is not an excise duty. The Provincial Government have got every power to levy the electricity duty and the Bombay Government have already passed it. I do not want to reply to the other points.

Mr. PRESIDENT: Order, order. The question before the House is that the Bill as settled in the Council be passed.

The House divided:—

AYES—28.

Ahmad, Mr. Naziruddin.
Ahmed, Mr. Mesbahuddin.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Kharshed Alam.
Chowdhury, Mr. Rezzaqui Haider.
Cohen, Mr. B. J.
D'Rozario, Mrs. K.
Elahi, Khan Bahadur S. Fazal.
Esmail, Khwaja Muhammad.
Haider, Nawabzada Kamruddin.
Hosain, Khan Bahadur Saiyed Mozzamuddin.
Huq Mr. Syed Muhammad Ghaziul.
Ibrahim, Khan Bahadur Maulvi Mohammad.
Jan, Khan Bahadur Shaikh Muhammad.
Khan, Khan Bahadur Muhammad Asaf.
Khan, Maulana Muhammad Akram.
Momin, Begum Hamida.
Molla, Khan Sahib Subidali.
Rahman, Khan Bahadur Ataur.
Rahman, Mr. Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Ray, Mr. Nagendra Narayan.
Roy, Rai Bahadur Radhica Bhusan.
Roy Chowdhury, Mr. Krishna Chandra.
Shamsuzzoha, Khan Bahadur M.
Stokes, Mr. H. G.

NOES—11.

Chakraverti, Mr. Shrish Chandra.
Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Datta, Mr. Narendra Chandra.
Dutta, Mr. Kamini Kumar.
Goswami, Mr. Kanai Lal.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Pal Choudhury, Mr. Ranajit.
Sanyal, Mr. Sachindra Narayan.
Sinha, Rai Bahadur Surendra Narayan.

The motion was adopted.

Adjournment.

The Council then adjourned till 2-15 p.m., on Friday, the 25th March, 1938.

Members absent:

The following members were absent from the meeting held on the 24th March, 1938:—

(1) Banerjee, Rai Bahadur Keshab Chandra.

(2) Hossain, Mr. Latafat.

(3) Karim, Khan Bahadur M. Abdul.

(4) Mookerji, Dr. Radha Kumud.

(5) Ormond, Mr. E. C.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 25th March, 1938, at 2-15 p.m., being the twenty-fifth day of the First Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

State Prisoners under Regulation III of 1818.

279. Mr. MOAZZEMALI CHAUDHURY: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) what is the number of State prisoners under Regulation III of 1818;

(*b*) what is the maximum and minimum period of detention of the State prisoners;

(*c*) what was the amount of daily and other allowances sanctioned for the State prisoners while they were outside Bengal;

(*d*) whether the rate was same in all the provinces; and

(*e*) what is the rate now sanctioned for the daily and other allowances of the State prisoners?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Minister in charge of the Home Department): (*a*) Fourteen.

(*b*) No maxima or minima have been prescribed.

(*c*) The diet allowance varied according to local circumstances between Rs. 2 and Re. 1-2 per diem. The personal monthly allowances varied between Rs. 20 and Rs. 34.

(*d*) No.

(*e*) Diet allowance Rs. 2 per diem and monthly allowance Rs. 15 per month per head. Orders have been passed increasing the latter to Rs. 32 per head.

Mr. MOAZZEMALI CHAUDHURY: Will the Hon'ble Minister be pleased to state who are those fourteen?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I ask for notice.

Mr. RANAJIT PAL CHOUDHURY: Arising out of clause (*b*), are there any State prisoners at present who are being detained for more than six years?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir.

Mr. RANAJIT PAL CHOUDHURY: What is the maximum period for which they have been detained?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I ask for notice.

Mr. RANAJIT PAL CHOUDHURY: How many of such prisoners have been detained for more than six years?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I ask for notice.

Release of Detenus.

280. Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) the number of the detenus still kept in detention in camps and jails;

(*b*) their places of confinement;

(*c*) when the Hon'ble Minister proposes to release those detenus in fulfilment of the policy, announced, of the progressive release of detenus;

(*d*) whether the Hon'ble Minister has after the last release of 1,100 detenus, considered relaxation in individual cases and has directed the removal of all restrictions on detenus; and

(*e*) if so, how many more have been released after the last release of 1,100 detenus and who are they?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) The number is rapidly decreasing and on the 18th March it was twenty-nine.

(*b*) Calcutta.

(*c*) As soon as their release can be accomplished without danger to public safety.

(*d*) and (*e*) Unconditional releases from camps, jails and domiciles number an additional fifty-five and conditional releases seventy-six.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister make that point clear whether this number twenty-nine in answer to question (*a*) means those in actual jail custody?

The Hon'ble Khwaja Sir NAZIMUDDIN: Detenus are not in jail custodies.

Mr. KAMINI KUMAR DUTTA: Are they in jail or in detention camp?

The Hon'ble Khwaja Sir NAZIMUDDIN: They are in jail, but they have gone there either for the purpose of treatment or they are there for the time being for transfer to some other place.

Grievances of the workers of the Calcutta University Press.

281. Dr. ARABINDA BARUA (on behalf of Mr. Krishna Chandra Roy Chowdhury): Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) whether it is a fact that in reply to an interpellation (question No. 87 of the 11th August, 1937), the Hon'ble Minister stated that he had called for a report from the authorities of the Calcutta University on the memorial submitted to the Hon'ble Minister on the 7th July, 1937, by the industrial workers of the Calcutta University Press;

(*b*) whether the report mentioned in part (*a*) has been received by the Hon'ble Minister from the University authorities; and

(*c*) whether the Government have taken any action on the memorial or upon the report of the University; if not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Education Department): (*a*) Yes.

(*b*) The report has not yet been received.

(*c*) Does not arise.

282. Dr. ARABINDA BARUA (on behalf of Mr. Krishna Chandra Roy Chowdhury): (*a*) Is it a fact that the Hon'ble Minister in charge of the Education Department in reply to a supplementary question to question No. 87 of the 11th August, 1937, put by Mr. K. C. Roy Chowdhury, stated that he would make an enquiry into the allegations made by the industrial workers of the Calcutta University Press to the

effect that they had been insulted and abused by the Registrar of the said University?

(*b*) If so, will the Hon'ble Minister please state whether any enquiry has been made?

(*c*) If the answers to (*a*) and (*b*) be in the affirmative, will the Hon'ble Minister be pleased to state whether the allegations of the workers of the Press have been found to be true?

(*d*) If the answer to (*c*) be in the affirmative, what action have the Government taken against the authorities of the Calcutta University Press? If not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Education Department): (*a*) Yes.

(*b*) to (*d*) The matter will be enquired into in due course.

283. Dr. ARABINDA BARUA (on behalf of Mr. Krishna Chandra Roy Chowdhury): Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) whether it is a fact that a memorandum of grievances of the workers of the Calcutta University Press was submitted to the Hon'ble Minister on the 5th December, 1937;

(*b*) if so, whether it was stated therein that those workers of the Press who were responsible for the organisation of the Calcutta University Press Workers' Union were specially selected out for punishment by way of drastically reducing their earning by inequitable transfers and entirely stopping their overtime work;

(*c*) if so, whether there were cases of such victimisation of the active workers of the University Press Workers' Union; and

(*d*) if the reply to (*c*) be in the affirmative, whether the Government have taken any steps against the authorities of the University to stop such victimisation and, if not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Education Department): (*a*) and (*b*) Yes.

(*c*) and (*d*) I am awaiting a report from the University on receipt of which suitable action will be taken.

Girls' High English Schools in Faridpur District.

284. Rai Sahib INDU BHUSAN SARKER: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) the number of high English schools for girls in the Faridpur district;

(*ii*) the respective numbers of students in those schools;

(*iii*) the number of middle English schools for girls in the same district; and

(*iv*) the respective numbers of students studying in those schools?

(*b*) (*i*) Are the Government aware that there was some proposal, a few years ago, to raise the standard of the existing Government middle English school to the standard of a high English school?

(*ii*) If so, what stood in the way?

(*iii*) What is the present expenditure incurred by the Government for that middle English school?

(*c*) (*i*) Is the Hon'ble Minister aware of the public demand for a high English school for girls in the district headquarters?

(*ii*) If so, do the Government propose to start one or to raise the Government middle English school to the standard of a high English school?

(*iii*) What is the present arrangement for girls after passing the middle English standard for further higher studies?

(*iv*) Do the Government propose to take necessary steps to remove the difficulties of the girls of the district, willing to prosecute higher studies after their middle English examination?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Education Department): (*a*) (*i*) One, viz., Donovan Girls' High School, Madaripur. There is also a girls' section attached to the Ishan Institution for boys at Faridpur having classes from VII to X.

(*ii*) One hundred and fifty in Donovan Girls' School and seventy-five in girls' section attached to Ishan Institution.

(*iii*) One, viz., Sadar Government Girls' Middle English School.

(*iv*) One hundred and eighty-three.

(*b*) (*i*) Yes.

(*ii*) The scheme has not matured as yet on account of financial stringency but it is now being examined by the Director of Public Instruction.

(*iii*) Rs. 7,111 in 1936-37.

(*c*) (*i*) Yes.

(*ii*) Does not arise in view of the reply to (*b*) (*ii*).

(*iii*) Provision is made for them in the Donovan Girls' High School at Madaripur and in the girls' section attached to the Ishan High School.

(*iv*) That is the present intention of Government.

Arrears of work accumulated during casual leave period of a Permanent Copyist.

285. Dr. ARABINDA BARUA (on behalf of Mr. Krishna Chandra Roy Chowdhury): (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is a fact that the permanent copyists of the Registration Department are on resumption of duties compelled to do their usual share of daily work which falls in arrears during the period they take casual leave?

(*b*) Does the rule apply in the cases of Registrars and Sub-Registrars of the aforesaid department?

(*c*) If the answer to (*b*) be in the negative, will the Hon'ble Minister kindly state, why the permanent copyists are to make up their arrears of work accumulated during their casual leave period?

(*d*) Do the Government propose to take steps to prevent the recurrence of such things in future?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Education Department): (*a*) Yes.

(*b*) All officers of Government are expected, as a general rule, to make good the deficiency of work which accumulates during the period of casual leave. The Registrars and Sub-Registrars are also governed by this general rule.

(*c*) and (*d*) Do not arise.

Extra copyists in the office of the Registrar of Assurances, Calcutta.

286. Mr. RANAJIT PAL CHOUDHURY (on behalf of Mr. Naresh Nath Mookerjee): Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table a statement showing—

(*a*) the dates of appointment, qualifications and name of each extra copyist of the office of the Registrar of Assurances, Calcutta;

(*b*) the names of those whose period of service ranges from five to twenty years continuously; and

(*c*) whether there is any provision made by Government for these extra copyists after their retirement?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Education Department): (*a*) A statement is laid on the Library table.

(*b*) None of the extra copyists were employed continuously without break or interruption.

(*c*) No.

Extra remuneration to the employees of the Calcutta Registry office.

287. Mr. RANAJIT PAL CHOUDHURY (on behalf of Mr. Naresh Nath Mookerjee): (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is a fact that the employees of the Calcutta Registry office are made to work the whole day on Saturdays like other week days?

(*b*) If the answer to (*a*) be in the affirmative, will the Hon'ble Minister be pleased to state if any extra remuneration is paid to each employee for such work on Saturdays?

(*c*) If the answer to (*b*) be in the negative, are the Government contemplating to take any steps to prevent its recurrence?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Education Department): (*a*) Yes.

(*b*) No, as they are whole-time Government servants.

(*c*) No.

Staff in the civil courts of Rangpur.

288. Khan Bahadur M. ASAF KHAN: (*a*) Will the Hon'ble Minister in charge of the Judicial and Legislative Departments be pleased to state what is the present numerical strength of the ministerial staff in the civil courts in the district of Rangpur and how many of them are Muhammadans and what is their percentage?

(*b*) How many posts are there in the upper division including the posts of the Munsif's Sheristadar and how many of them have been given to the Muhammadans during the last two years?

(*c*) How many appointments were made in the ministerial staff from 1935 up to December, 1937; and how many of them have gone to the Muhammadans and depressed class Hindus?

(*d*) What attempt is being made to raise the percentage of the Muhammadans and the depressed class Hindu employees, if they are not properly represented both in the upper and the lower divisions?

MINISTER in charge of the JUDICIAL and LEGISLATIVE DEPARTMENTS (the Hon'ble Nawab Musharruf Hossain, Khan Bahadur): (*a*) The present numerical strength of the clerical staff of Rangpur is 113; out of which 31 are Muhammadans, 74 Hindus and 8 belong to the Scheduled Castes; the percentages being 27·3, 65·6 and 7·1, respectively.

(*b*) Eleven posts in the upper division; of whom three are Muhammadans. Two Muhammadans were given appointments in the upper division in 1937.

(*c*) Eighteen appointments were made in the clerical staff—eight Hindus, seven Mussalmans and three Scheduled Caste candidates.

(*d*) As indicated in reply to (*c*), every attempt has been made to raise the percentage of the Muhammadans and the Scheduled Caste candidates. The proportion is worked up gradually.

In case of promotions to upper division there can be no question of communal ratio as promotion must be made on merit alone, or on merit combined with seniority, as the case may be. Direct appointments have sometimes to be made in the upper division if there be no suitable persons in existing staff to fill those responsible positions.

Rai KESHAB CHANDRA BANERJEE Bahadur: With reference to answer (*d*), will the Hon'ble Minister be pleased to state whether it is a fact that the principles enunciated in the answer are not always followed?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: The question is too vague and I do not think any answer is necessary.

Khan Bahadur M. ASAF KHAN: With regard to answer (*c*), have any of these appointments, at least two of them, gone to the nephews of the District Judge at Rangpur?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: I want notice for a question like this.

Mr. PRESIDENT: Order, order. The House will now take up the Bengal Tenancy (Amendment) Bill, 1938.

Rai KESHAB CHANDRA BANERJEE Bahadur: On a point of information, Sir. I gave notice of a question which is very important from the point of view of the people of Mymensingh district and I have just received a communication from the department that I am to submit newspaper cuttings in respect of the question. I am not aware of any circular issued by the department drawing the attention of the members to the necessity of enclosing paper cuttings with the questions. In the absence of any such circular or rule, may I know, Sir, under what Rules or Standing Orders a member is required to submit paper cuttings at the time of giving notice of questions? Paper cuttings are not always available and I have not preserved them for my question and they would have been preserved if it had been known beforehand that they would be required subsequently. So far as I am aware, it is the department concerned that generally finds out the relevant papers.

Mr. PRESIDENT: If you write to the office, the office will reply to the point raised.

GOVERNMENT BILL.

The Bengal Tenancy (Amendment) Bill, 1938.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that the report of the Select Committee on the Bengal Tenancy (Amendment) Bill, 1938, be taken into consideration.

Mr. RANAJIT PAL CHOUDHURY: 1937 or 1938.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: 1938.

Mr. PRESIDENT: Motion moved that the report of the Select Committee on the Bengal Tenancy (Amendment) Bill, 1938, be taken into consideration.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: On a point of order, Sir. May I ask for a ruling if the report of the Select Committee on the basis of which the Hon'ble Revenue Minister is asking the House to take the Bengal Tenancy (Amendment) Bill into consideration, has or has not been framed in contravention of section 61, sub-section (*3*) of the Bengal Legislative Council Rules and Standing Orders as adopted under section 84(*3*) of the Government of India Act, 1935. You will, Sir, notice that sub-section (*3*) of section 61 to which I have referred, makes it obligatory on the Select Committee to state in their report whether or not in their judgment, the Bill which they have considered has been so altered as to require republication. This injunction is mandatory, but the report under review shows that it has not been complied with. It is also a point for consideration whether the said report has been rendered unacceptable and invalid by the inclusion of a new Chapter, Chapter XIVA which is definitely beyond the terms of reference—not within the four corners of the Government sanction, and certainly not within the scope of the Bill. In these circumstances, I respectfully submit, Sir, that you should declare that the report is null and void and ask the Select Committee to draw up a fresh report. I submit that there is no other alternative for them but to re-open the proceedings and proceed with the consideration of the Bill *de novo*.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, two points, I believe, have been raised by the Maharaja of Santosh. One is that the provision of section 61 of the Rules and Standing Orders have not been complied with, *i.e.*, the Select Committee in their report did not mention clearly whether republication of the Bill was necessary or not. My submission on this point is that the Bill having been actually

published in the *Calcutta Gazette* of the 17th of March, 1938, under section 62 of the Rules and Standing Orders, that defect is merely a formal one which the House can condone if it wants to do so. Sir, the object of this publication seems to be that the members should know what the report is, and that the report should be in their hands at least seven days before the report is taken into consideration according to section 63 of the Rules and Standing Orders. The report has already been circulated to the hon'ble members and as the Bill has already been published in the *Calcutta Gazette* of the 17th March, I venture to submit, Sir, that there is not much substance in that objection, and the omission is merely a technical defect which the House can condone. Sir, on this point Government consulted the Advocate-General and he also is of the same opinion, that it is not a serious or a material irregularity; it is merely a formal irregularity which the House can condone.

Mr. PRESIDENT: If the Advocate-General had to say anything, it was proper for him to come here and say and not send it through any other gentleman, because he has a right to address the House, and I very much object that any authority should be quoted of one who can be present in this House but is not present.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: His written opinion is here, and I am holding it in my hand. If permitted, I may read it out.

Mr. LALIT CHANDRA DAS: If he is present, we can question him, we can hear him. He can address us.

Mr. PRESIDENT: You may read it for what it is worth.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: "Section 61(*1*) of the Bengal Legislative Council Rules and Orders requires that the Select Committee shall in their report state whether in their judgment the Bill has been so altered as to require republication. In its report on the Bengal Tenancy (Amendment) Bill, 1938, the Committee has omitted to make any statement on the matter of republication. The question is as to what is the effect of the omission and what is to be done now. I know that under section 62 (*1*) every report of the Select Committee has to be printed and a copy is to be made available for the use of each member and that the report on the amended Bill is to be published in the *Gazette*. Under section 63 when the report is presented, the member in charge may under clause (*3*) of section 63, move that the Bill as reported by the Select Committee be taken into consideration, but at the same time any other member may object to its being so taken into consideration if a copy thereof had not been made available for the

use of the members for at least seven days, before discussion and such objection shall prevail unless the President allows consideration by the House suspending the rule".

From the above, it seems to me that the only point of the requirement of the Select Committee to make a statement on the subject of republication, is that this will be some guide to the members and to the President. In regard to action under section 62 (*3*) (*1*) for republication, it is required in all cases under section 62, but there is nothing in that rule which requires that actual republication shall have taken place before the report is moved to be taken into consideration under rule 63. In other words, unless an objection is raised under under section 63. In other words, unless an objection is raised under section 63 (*3*) (*i*), an omission by the Committee to record a statement about republication cannot have any possible effect.

"If publication has taken place under section 62 before the member in charge moves that the report be taken into consideration, then it is clearly immaterial whether the Committee has recommended publication or not; if the publication was more than seven days before the motion, the objection cannot even be raised. If the objection can be and is raised, and there has been no publication and if the President has not the advantage of the opinion of the Select Committee on the need for republication, he may use his own judgment and will, presumably, ordinarily allow the objection to prevail. If he allows a motion for consideration, a member may still move for recommittal, and if the House is with him, he will gain time for republication to be made. If it is felt by the House that the opinion of the Select Committee on the question of republication is essential, it can pass a motion for recommittal for that purpose. I must confess I cannot imagine any circumstances in which there would be any sense in such a motion.

I conclude then that section 61 (*3*) contains a purely directory provsion, and that if the Select Committee omits to make the statement therein required, the effect is unimportant; at most it may result, in certain circumstances, in the President refusing to allow early consideration of a report before publication has been made, under section 62, because he will err on the side of caution in the absence of an expression of opinion by the Committee that republication is not necessary."

That, Sir, is the opinion of the Advocate-General.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: The other point, Sir, has not been answered.

Mr. HUMAYUN KABIR: Sir, without making any comments on the opinion of the Advocate-General, may I move that sub-section (*3*)

of section 61 of the Bengal Legislative Council Rules and Standing Orders be suspended? If that is done, all these points will not arise at all, and I submit that since this House has the power under sub-section (*1*) of section 84 of the Government of India Act, 1935, to frame rules—

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I have not yet finished replying to the points raised by the Maharaja of Santosh.

Mr. HUMAYUN KABIR: Why did you not do it? Why did you sit down?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I thought that Mr. Kabir had risen on a point of order, and so I sat down. My friend is so very anxious to rise on points of order that it is very difficult to understand whether he is on a point of order or not. (Laughter.)

The other point, Sir, raised by the Maharaja of Santosh is whether the insertion of Chapter XIVA in the report of the Select Committee was not directly outside the scope of the Bill and beyond the terms of reference. My submission is that it is not so, because Chapter XIIIA was repealed, and this Chapter XIVA is a substitute for Chapter XIIIA. The Bill deals with the question of speedy realisation of rent and so it is not beyond the scope of the Bill, and the Select Committee was fully within its rights to insert Chapter XIVA.

Mr. KAMINI KUMAR DUTTA: As to the first point, Sir, I shall say nothing, but as to the second point——

Mr. PRESIDENT: There is nothing in the second point, and I can easily dispose of it, because the Chairman of the Select Committee has all the rights of the President of this House to give his ruling as to whether a particular matter is within or outside the competence of the Select Committee to decide. Of course, when the matter will come up for discussion before this House, fresh points of order can be raised, but so far as the report of the Select Committee is concerned, it is perfectly in order, inasmuch as the decision of the Chairman of a Select Committee is as final as the decision of the President of the Council on all points of order is.

As regards the other point, I mean the first point, that has been raised by the Maharaja of Santosh, I feel a good deal of difficulty in spite of the learned opinion of the Advocate-General, who is unfortunately not present to take part in this debate. My difficulty is that the Hon'ble Minister has appealed to this House to condone a certain irregularity, but the House has no right to give any decision on a point of order, unless on any special occasion the President desires the House to share with him the authority of giving a ruling on a point of order.

So, it is no use appealing to the House to condone any irregularity. Further, the rules were made for observance and not for breach every time. This rule is mandatory, as has been observed by the Maharaja of Santosh; the Advocate-General has dealt with the matter very superficially. The decision is not so easy. I have consulted the Rules and Standing Orders of the Central Legislature on this subject. I would refer to sub-clause (*4*) of Standing Order 40A of those Rules, which reads as follows: "The Select Committee shall in their report state whether or not, in their judgment, the Bill has been so altered as to require republication, whether the publication directed by the rules has taken place, and the date on which the publication has taken place." Our rule is, more or less, in the same language. It is not by a mere chance that this section has been inserted here. Before I consider section 62, it is incumbent on Government to show that they have complied with the mandatory provisions of section 61, and it is not for the House to condone it.

Mr. HUMAYUN KABIR: I would ask, Sir, whether it would be in order to move that section 61 (*3*) of the Rules and Standing Orders be suspended for this purpose. Since the House has got the power of framing rules under sub-section (*1*) of section 84 of the Government of India Act, 1935, has it not also the power to suspend any particular rule?

Mr. PRESIDENT: Order, order. There are special rules as to how these rules are to be amended. If the House desires to amend any Rule or Standing Order, it can certainly do it. But the rules were framed particularly with the object of preserving the rights of the minority, so that the majority may not tyrannise over the minority. (Hear, hear.)

The Hon'ble Khwaja Sir NAZIMUDDIN: May I submit, Sir, that any irregularity in the procedure ordinarily does not vitiate the whole thing? Here the question is, as you will see, whether anybody is adversely or prejudicially affected by this mistake——

Mr. PRESIDENT: Will Sir Nazimuddin please apply his mind to the question why these rules have been framed not only here but also in the case of the Central Legislature?

The Hon'ble Khwaja Sir NAZIMUDDIN: I will just answer your question, Sir. The reason why two publications were thought necessary is that in a case where a Select Committee thinks that a Bill has been materially amended and that the whole character of a Bill has been changed, it should be republished. Then the other thing relates to a later action, viz., that a publication is to be made only on

the report of the Select Committee. There are two objects—one is to give publicity to the report of the Select Committee, and the other is to show that the Select Committee considers that the Bill has been so amended that it should especially attract the attention of the House. The object of the first clause is that it should specifically draw the attention of the members of the House——

Mr. PRESIDENT: That is section 61.

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes. The object of the first clause is that it should draw the attention of the members of the House that the character of the Bill has been changed: the Select Committee consider that the character of the Bill has been changed. But there is nothing to be gained by republication of the Bill by the Select Committee. The only object is to draw the attention of the members of the House that the character of the Bill has been changed. That is the only reason why that certificate is necessary. In case they do not think that the Select Committee has so amended the Bill that the character of the Bill is changed——

Mr. PRESIDENT: So you feel there is necessity for both of these sections.

The Hon'ble Khwaja Sir NAZIMUDDIN: I am only putting my point of view for your consideration. This is a new aspect and I want you to consider this aspect that the object of section 61 is to draw the attention of the members of the House that the character of the Bill has been changed.

Mr. PRESIDENT: You also find that this is a mandatory provision?

The Hon'ble Khwaja Sir NAZIMUDDIN: I admit that this is a mandatory provision and so it is necessary that it should be done. In view of the fact that it is a mere irregularity—and there is a difference between irregularity of procedure and illegality—this can be condoned by you.

Mr. LALIT CHANDRA DAS: Sir, may I submit one thing? The Hon'ble Home Minister has said that the purpose of section 61 of the Rules and Standing Orders is to state whether in the opinion of the Select Committee the Bill has been so altered as to require republication. The Home Minister has overlooked one very important word written there. It is not merely when the Bill has been so altered as to require republication that it should be stated by the Select Committee, but also even when in the opinion of the Select Committee it has not been so altered that it should also be stated; because the words are

"whether or not," the Select Committee in their report shall state whether or not in their judgment the Bill has been so altered as to require republication. Therefore, whether or not the Bill has been so altered as to require republication, must be stated by the Select Committee and even if the Bill has not been so altered, in that event too, it must be stated by the Select Committee. There is no other alternative. The explanation given by the Hon'ble Home Minister means that only when the Bill has been altered, then and then only the Select Committee is to state in their report that the Bill has been so altered as to require republication. That is not what sub-section (*3*) of section 61 states. It is mandatory as the word "shall" implies. So this provision must be observed. It is not an irregularity but an illegality.

Mr. HAMIDUL HUQ CHOWDHURY: There has been a grave mistake and the effect will be very serious on this House. Section 84 of the Government of India Act, 1935, sub-section (*3*) empowers the Governor——

Mr. PRESIDENT: At present I am concerned with the point of order and I would like the hon'ble members to speak on the point of order.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, may I say a few words? Section 61 stands on its own legs. It does not refer to any other section nor is it dependent on any other section. It is self-contained and conclusive. So there is no way out. Besides, the Hon'ble Home Minister has not given any importance to the judgment of the Select Committee to which the House is entitled. The House want to know what is the judgment of the Select Committee. The House will no doubt form its own opinion as to whether there is any necessity for the republication of the Bill: the House has created the Select Committee and has charged it with the duty of reporting to the House as to what they think about it. The judgment is essential and important. They have got to record their judgment in the matter; whether that judgment is correct or not is to be judged by the House when the business is discussed on the floor of the House. Their duty is clear that they have got to record their judgment. The Advocate-General has referred to other rules. But, as I have submitted, this rule stands on its own legs and is absolutely independent of any other rules: it is conclusive, definite and mandatory.

Mr. NAZIRUDDIN AHMAD: Sir, I am prepared to concede that the word "shall" makes it a mandatory provision. But I shall concern myself with the effect of non-observance of this "mandatory" rule. I submit that even if a mandatory rule is not observed, the question as to whether the resulting act is merely irregular or void

ab initia, depends on the effect of the same, namely, if the effect goes to the root of the matter or if the thing affects the merits of the matter, then the irregularity or illegality is not curable. But if it does not do any one any harm, if it does not go to the root of the matter and does not affect the thing on the merits then the failure or omission to observe a "mandatory" provision does not make the thing illegal. There is no charm in the expression "mandatory provision" and the use of this expression will not help us much. The effect of failure to observe a "mandatory" provision which begins with the word "shall" was considered very recently by their Lordships of the Privy Council. If I am permitted to discuss the matter briefly—as the matter is very important—I may say that the question there arose as to whether the failure to observe the provisions of section 360 of the Code of Criminal Procedure led to the failure of the trial. Section 360 lays down that when evidence is given by a witness, it shall be read over and interpreted to the witness in the presence of the accused and so forth. On the strength of the word "shall" in the section, it was being uniformly held by various High Courts in India that the provisions of the section were "mandatory" and that the failure to observe this "mandatory" provision led to failure of justice, irrespective of the effect of the omission on the merits of the case.

Mr. PRESIDENT: I do not say that if this point had not been raised, this would have vitiated the whole passing of this Bill. I do not hold that view. But when there is a mandatory provision and when we are considering the Bill and when that mandatory provision has been pointed out to us, it is proper for the House to try to comply with the requirements of the Rules and Standing Orders.

Mr. NAZIRUDDIN AHMAD: I submit that if after hearing us you rule that we should comply with the provision, it is another matter. I was, however, submitting that it would not be necessary to go so far as that. The Indian High Courts were returning the cases to the original courts to comply with the section. In the case before the Privy Council their Lordships held that as the failure to observe the provisions of the section did not affect the case on the merits and no injustice had resulted therefrom, the non-observance should be overlooked.

Mr. PRESIDENT: What will be the effect of this cannot yet be anticipated.

Mr. NAZIRUDDIN AHMAD: I was going to make my submissions on this very point. The question, according to the Privy Council, in such cases will depend on whether the non-observance of the rule has harmed or prejudiced anybody already. It depends entirely on the

gravity and effect of the breach or the non-observance of the rule. I submit, respectfully, that no harm has been caused to anyone in this instance nor is the rule or its observance a condition precedent to the jurisdiction of this House to proceed further. The Bill has been printed and circulated, not only to all the members of the Committee but to all members of the House, and it has also been published in the *Calcutta Gazette* and broadcast throughout Bengal and even outside Bengal. Therefore, Sir, I submit that although there has been a failure to observe a certain minor and a comparatively unimportant provision of the rules, still it would be quite proper for you to hold that as the effect of the non-observance is not grave enough to affect the question on the merits, and as it had not the slightest effect on the merits, it is a mere irregularity which should be ignored. It is quite within your power to rule that although there has been a breach of the rule, still that does not affect the matter on the merits and you can ignore the same. I submit that this is the correct position and this minor omission need not be taken very seriously. It is a "tempest in a tea pot" and the objection is a mere debating point and no one would have been or would be benefited by a compliance with the rule.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, these rules have been framed under section 84(*3*) of the Government of India Act, 1935. These rules have the force of law just as the section of the Act itself and if any of these rules are violated, then the Select Committee will be held accountable for that. The Hon'ble Home Minister has said that it is only an irregularity and not an illegality. I maintain that it is not irregular but illegal since the law has not been complied with. Besides that, he has said that the Bill together with the report of the Select Committee has been published in the *Calcutta Gazette*. In the absence of any direction by the members of the Select Committee, no such publication was necessary. The very fact that the Bill and the Select Committee's report have been published does not do away with the necessity of section 61(*3*) of the Rules and Standing Orders. This is my submission.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, may I make one submission to you and to the House?

Mr. PRESIDENT: You need not make any submission to the House. As regards the point of order that has been raised, it is for the President to decide and the House has got nothing to do with it.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Then I submit to you, Sir.

As the Maharaja of Santosh has pointed out, the House is certainly entitled to have the opinion of the Select Committee on this particular

point as to whether in the opinion of the Select Committee the Bill has been so amended as to require republication. So my submission is this that conceding that the Maharaja Bahadur's argument is correct, the House certainly can dispense with that necessity. The House has the right to do so. The Select Committee's report is already before the House and I presume that the hon'ble members have fully studied the report and whether the drawing of the attention of the members is or is not a necessity, the House can certainly decide. That is my submission.

As my colleague Sir Nazimuddin has pointed out, it is not an illegality but merely a formal irregularity; certainly the House and you——

Rai KESHAB CHANDRA BANERJEE Bahadur: It is for the President to give the ruling.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have already come to know that.

Mr. PRESIDENT: Yes.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: ——can dispense with the necessity of that report on that particular point.

Mr. RANAJIT PAL CHOUDHURY: Sir, may I submit that the Select Committee has clearly mentioned that a new Chapter (Chapter 14) has been added and this Chapter, I submit, materially affects the Bill and consequently section 61(3) comes in. I therefore look forward to you——

Mr. PRESIDENT: Mr. Das has made it clear.

Maulana MUHAMMAD AKRAM KHAN addressed the House in Bengali. The following is the English translation of his speech:—

Mr. President, Sir, here is a serious legal controversy and I am precluded from entering into it. But law must come in.

We hear that there is a word "Estoppel" in English whose meaning is "obstruction created by oneself". I want to ask whether the gentlemen, who comprised the Select Committee, were entitled, according to the fundamental principles of law, to show negligence to their own work.

Mr. PRESIDENT: I hold that section 63(3) of the Rules and Standing Orders is mandatory and must be complied with. At the same time, I agree with the contention of the Government that it is an irregularity and so does not vitiate the whole report. I do not

agree with the contention of the Advocate-General that section 62—that is an entirely different section and has no reference to section 61—will, in any way, help the Government in this matter. So I suggest to Government that the Bill may be sent back to the same Committee with instructions to comply with the requirements of sub-section (3) of section 61 and submit their report to-morrow. In the meantime the Chair will direct that all the notices of amendments that have already been received, will be treated as valid for the purpose of the new report of the Select Committee that will come back to-morrow. I find no other alternative to escape from the mischief of this mandatory section.

The Hon'ble Khwaja Sir NAZIMUDDIN: May I with your permission move a short-notice amendment?

Mr. PRESIDENT: Yes.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that the Bengal Tenancy (Amendment) Bill, 1938, be recommitted to the same Select Committee as has already reported, in order that the Committee may comply fully with the requirements of section 61 of the Bengal Legislative Council Rules and Standing Orders, and that five of the members shall form a quorum and that the Committee be requested to submit their report within twenty-four hours.

Khan Bahadur ATAUR RAHMAN: Some of the members are absent to-day.

Mr. PRESIDENT: Will the Hon'ble Khwaja Sir Nazimuddin read his amendment again?

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg leave to move the following short-notice motion, namely, that the Bengal Tenancy (Amendment) Bill, 1938, be recommitted to the same Select Committee as has already reported, in order that they may comply fully with the requirements of sub-section (3) of section 61 of the Bengal Legislative Council Rules and Standing Orders, and that the Committee be requested to submit their report by the 26th March, 1938.

Rai KESHAB CHANDRA BANERJEE Bahadur: To-morrow? It is almost impossible.

Mr. PRESIDENT: Order, order. Amendment moved——

Maharaja Sir MANMATHANATH RAY CHOWDHURY, of Santosh: Is it a motion or an amendment?

Mr. PRESIDENT: Well, the motion is already before the House and it has been moved by the Hon'ble Sir Bijoy Prasad Singh Roy.

Maharaja Sir MANMATHANATH RAY CHOWDHURY, of Santosh: Then is this an amendment?

Mr. PRESIDENT: Yes, amendment.

Motion moved: that the Bengal Tenancy (Amendment) Bill, 1938, be recommitted to the same Select Committee as has already reported, in order that the Committee may comply fully with the requirements of sub-section (3) of section 61 of the Bengal Legislative Council Rules and Standing Orders and the Committee be requested to submit their Report by the 26th March, 1938.

Mr. NARESH NATH MOOKERJEE: If this amendment is accepted, Sir, it will involve certain difficulties.

Mr. PRESIDENT: Are you making a speech or raising a point of order?

Mr. NARESH NATH MOOKERJEE: On a point of order, Sir. The difficulty is that many members are absent and a meeting will perhaps have to be held immediately to-day, so those members of the Select Committee will not be able to attend the meeting.

Mr. PRESIDENT: That is a point for opposing the motion: it is not a point of order.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, I ask for your ruling as to whether the amendment moved by the Hon'ble Home Minister is in order, because I find that there is no mention of the number of members that are necessary to form a quorum.

Mr. PRESIDENT: I refer the Rai Bahadur to section 63(3)(*ii*) of the Rules and Standing Orders where after stating that in presenting report the Chairman shall, if he makes any remark, confine himself to a brief statement of fact. It says that "after the presentation of the final report the member in charge may move that the Bill, as reported, be taken into consideration or that the Bill be recommitted"—that will be enough answer to the Rai Bahadur—"either without limitation or with respect to particular clauses or amendments only or with instructions to the Select Committee to make some particular or additional provision in the Bill." So you will see that there is no requirement about a quorum or a date or anything of the kind.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, one thing is troubling me. I am very anxious that the Bill should be finished

quickly. But will it enable any members of the Select Committee to raise any question, namely, will it give them any right to go into the merits of the Bill itself, because they may insist that unless they go into the whole Bill, they would not be able to say whether it requires republication; further, some members of the Committee are not present to-day, and question may be raised that unless proper notice is given to them, the Select Committee may not be able to sit to-day.

Mr. PRESIDENT: You need not proceed further; I have understood your point. This is not a point of order. But the Chair has the right to give instruction and the Chair holds that the Select Committee will not have the right to re-open matters already decided, but will abide by the specific instructions that are given to them, namely, only to comply with sub-section (*3*) of section 61, of the Bengal Legislative Council Rules and Standing Orders.

Is Maharaja of Santosh rising on a point of order, for I am now considering only the point of order.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I am raising a point of order, Sir. In my opinion this amendment is not in order, for the very simple reason that an amendment must be within the scope of the question to which it is proposed; but to what question is this amendment proposed? The only question before the House is that the Bill be taken into consideration but the substance of the amendment is a different matter altogether. There is no question here with reference to the report of the Select Committee that was raised in the course of the point of order. The question is to take the Bill into consideration, but how is this amendment relevant to that? Besides that, you have read out section 63(*3*)(*c*), of the Rules and Standing Orders, viz., "with instructions to the Select Committee to make some particular or additional provision in the Bill" but the instruction is to make additions to the report, so it does not come under section 63(*3*)(*c*). Therefore, I think, this amendment is not in order at all.

Mr. PRESIDENT: Does any other hon'ble member wish to participate in this discussion on the point of order?

Mr. NAZIRUDDIN AHMAD: Sir, this is exactly relevant to the point.

Mr. PRESIDENT: I mean whether any hon'ble member wishes to support the point of view raised by the Maharaja of Santosh? In reply to the Maharaja, I may quote section 63(*4*) of the Rules and Standing Orders which says "if the member in charge moves that the Bill be

taken into consideration, any member may move as an amendment that the Bill be recommitted". That satisfies the point raised by the Maharaja.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: We want your ruling——

Mr. PRESIDENT: Not on the point of order?

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Yes, if the Bill be recommitted, then I hold and I submit that you should also hold that all the provisions of the Bill are exposed to the scrutiny of the Select Committee again; that is the only way out of it.

Mr. NAZIRUDDIN AHMAD: The matter is covered by the ruling of the Chair already given.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: That is not a proper appeal to the Chair; I am appealing to the Chair as well.

Mr. PRESIDENT: I have referred to section 63(3)(*ii*) of the Rules and Standing Orders, where it is said that a Bill may be recommitted either without limitation or with respect to particular clauses or amendments only or with instructions to the Select Committee to make certain additional provisions in it; here the question is to make some additional provisions in the Bill about satisfying the requirement of sub-section (3) of section 61 of the Rules and Standing Orders. That is my ruling.

Mr. RANAJIT PAL CHOUDHURY: Sir, on a point of information. As regards section 63(4) if the member in charge moves that the Bill be taken into consideration, any member may move as an amendment that the Bill be recommitted. Here the reference is made to any "member". Is the Hon'ble Home Minister a "member" of this House?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That point was disposed of long long ago.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, I am not questioning your ruling, but I want to know for our guidance whether the Select Committee will have the right——

Mr. PRESIDENT: Well, wait and see. I shall give my instructions as soon as this question is settled.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Just one point, Sir, if you do not mind.

Mr. PRESIDENT: It is irregular to re-open this question when I have already given my decision on the point of order. Now, as regards the instructions to be given, if the Maharaja has anything to suggest I shall consider it when the motion is carried, for otherwise I shall be anticipating and it may be unnecessary.

I put the motion now. The motion before the House was that the Bengal Tenancy (Amendment) Bill, 1938, be taken into consideration Since then an amendment has been moved that the Bill be recommitted to the same Select Committee as has already reported, in order that the Committee may comply fully with the requirements of sub-section (*3*) of section 61 of the Bengal Legislative Council Rules and Standing Orders and that the Committee be requested to submit their report by the 26th March, 1938.

The question was agreed to.

Rai KESHAB CHANDRA BANERJEE Bahadur: On a point of information, Sir. The Bill has been recommitted to the same Select Committee, but how will it be possible for the Committee to consider the Bill and submit its report to-morrow, because if the Bill——

Mr. PRESIDENT: That ought to have been one of the reasons for opposing the motion, but you know the House has accepted the motion, so I cannot help.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I suggest, Sir, that for the consideration of this Bill the House sit from 1-30 p.m. to-morrow?

Mr. HAMIDUL HUQ CHOWDHURY: That would be very inconvenient.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I consulted the Leaders of the different Groups and most of them are agreeable to sit at 1-30 p.m.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Is it another amendment, Sir?

Mr. PRESIDENT: Not an amendment, but an enquiry whether it would suit the convenience of hon'ble members to sit at 1-30 p.m.

Mr. BANKIM CHANDRA DATTA: We, on this side, agree to sit at 2 o'clock if that will suit the convenience of Government.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The only difficulty is that we want to finish this Bill as quickly as we can.

Mr. PRESIDENT: That is for the House to decide.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I consulted the leaders of the Progressive Party, the European Group, and also Mr. Kamini Kumar Dutta who, I presume, is the leader of the Congress Party.

Several members: No, no, he is not the leader of the Congress Party. The leader of the Congress Party is known to Government already.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I want your instruction, Sir, as to whether at the meeting of the Select Committee we will take it as part of your ruling that the Bill has been recommitted.

Mr. PRESIDENT: My advice to the Select Committee would be that the Bill is recommitted for the purpose mentioned in the amendment that has been accepted by the House.

As regards the time for the next meeting, will the deputy leader of the Congress Party say whether it will be convenient for them to attend the meeting at 1-30 p.m.?

Mr. BANKIM CHANDRA DATTA: The opinion of the majority of our party is to hold the meeting at 2 p.m.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I do not mind that.

Mr. H. C. STOKES: 2 o'clock will suit us, Sir.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: May I know if the report of the Select Committee will be re-circulated to all the members?

Mr. PRESIDENT: It will not be re-circulated, but published in the *Gazette*. It would also be preferable to hold the meeting to-day so that this can be published this evening. I have also held that no further notice of amendments will be necessary, the notice of amendments already served, will be treated as valid.

I now adjourn the House till 2 p.m., on Saturday, the 26th March, 1938.

Adjournment.

The Council then adjourned till 2 p.m. on Saturday, the 26th March, 1938.

Members absent:

The following members were absent from the meeting held on the 25th March, 1938:—

(1) Hossain, Mr. Latafat.

(2) Karim, Khan Bahadur M. Abdul.

(3) Lamb, Mr. T.

(4) McFarlane, Mr. J.

(5) Mookerji, Dr. Radha Kumud.

(6) Ormond, Mr. E. C.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Saturday, the 26th March, 1938, at 2 p.m., being the twenty-sixth day of the First Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble MR. SATYENDRA CHANDRA MITRA) was in the Chair.

A question of privilege.

Mr. KADER BAKSH: Mr. President, Sir, I rise on a question of privilege. To-day, when I was coming to attend the meeting of the Select Committee at 10 o'clock in the morning and got down from my car with my friend Mr. Mukhlesur Rahman, my friend was challenged by an ordinary police constable who was on duty in the compound of this House. The constable did not allow my friend to come to the building. Afterwards when my friend informed the constable that he was a member of the Council, then only the constable allowed him to pass. Sir, I take great exception to an ordinary constable challenging an hon'ble member of this House and preventing him from entering the building. I wonder why a responsible assistant of the Council Department is not deputed to be present at the entrance in order to obviate such unpleasant occurrences. The assistant so deputed should be familiar with the faces and names of hon'ble members of this House.

Mr. PRESIDENT: The Chair very much regrets the occurrence. I shall personally investigate into the matter and see to it that, in future, hon'ble members are not obstructed in any way from coming to this House. I will take adequate steps to see that such things do not recur.

Mr. KADER BAKSH: Thank you, Sir.

QUESTIONS AND ANSWERS

Public Service Commission and the Provincial Civil Services.

289. Mr. KAMINI KUMAR DUTTA: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state in how many instances the Public Service Commission, since their creation in the Province of Bengal, have recommended the suitability of candidates for appointment in the Provincial Civil Services and in how many instances their recommendations have been accepted by the Minister concerned and in how many their recommendations have not been acted upon?

(*b*) Will the Hon'ble Minister be pleased to enumerate those instances in which the recommendations of the Public Service Commission have not been accepted by the Government with the names of the candidate recommended but not accepted and the names of those who have been appointed to those posts in their stead?

(*c*) What are the reasons for not accepting the recommendations of the Public Service Commission?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) I propose to assume that the hon'ble member refers to all appointments with regard to which the Public Service Commission has been consulted and not merely to appointment in the Bengal Civil Service and the Bengal Junior Civil Service. The Commission was consulted in one hundred and eight cases. In one case only did Government appoint a candidate not recommended by the Commission.

(*b*) I regret that I am not prepared to supply this information.

(*c*) Because the person appointed was considered more suitable for the post than the person recommended by the Commission.

Mr. KAMINI KUMAR DUTTA: With reference to answer (*b*), will the Hon'ble Minister be pleased to state why he is withholding information?

The Hon'ble Khwaja Sir NAZIMUDDIN: On grounds of public policy.

Government Grant to Schools.

290. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether he is aware of the fact that new schools, started in backward areas, do not get Government grant though such schools are mostly in need ?

(*b*) Will the Hon'ble Minister be pleased to consider the desirability of revising the Government policy by gradually reducing the grants of old institutions for securing money for nursing infant institutions located in backward areas?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, may I have your permission to answer this question on behalf of the Hon'ble Mr. Fazlul Huq?

Mr. PRESIDENT: There ought to be some arrangement as to who should answer questions on behalf of the Hon'ble Mr. Fazlul Huq. I find that the Hon'ble Minister is usually absent from this House, and no explanation as to whether he is really ill has been offered.

The Hon'ble Khwaja Sir NAZIMUDDIN: The Hon'ble Chief Minister has been so busy in connection with his numerous engagements that he has not been able to attend this House regularly.

Mr. PRESIDENT: The difficulty arises in connection with supplementary questions. The right of putting supplementary questions is a valued one. If it is arranged that you, Sir Nazimuddin, will be responsible for answering supplementary questions on his behalf, the House will be only too glad to accept you as his substitute.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I have already spoken to the Hon'ble Chief Minister, but so far as to-day is concerned, I am prepared to answer supplementary questions on his behalf. As regards the future, arrangement will be made that one of us will answer supplementary questions on his behalf.

Mr. PRESIDENT: All right.

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Education Department): (*a*) Information on this point is not readily available but I am having enquiries made.

(*b*) This question will be duly considered.

Dignity of the Chair.

Khan Sahib ABDUL HAMID CHOWDHURY: Mr. President, Sir, with your kind permission I beg to raise another question of privilege concerning this House. I beg to refer to a passage in to-day's issue of the *Amrita Bazar Patrika* which, I think, casts unmerited reflection on the Chair of this House. I crave the indulgence of your kind permission to read out the passage, so that my point may be made clear.

Mr. PRESIDENT: Yes, you may.

Khan Sahib ABDUL HAMID CHOWDHURY: Sir, the passage reads as follows:—"The President of the Bengal Legislative Council has laid the Bengal Ministry under a deep debt of gratitude. He virtually abdicated his function as Chairman and instead of giving a ruling on the point raised by Mr. Humayun Kabir as regards the legality of the Bengal Expiring Laws Bill, left the matter to be decided by the vote of the House where the Government have a solid majority. The result is that the Bill has been passed and the Ministry has got just what it wanted. We regret Mr. Mitter did not choose to exercise his undoubted right in the matter. True, there was no precedent for his guidance. But he forgot he was there to create a precedent, if necessary. We regret to confess he has disappointed us." I submit, Sir, that the Editor of the paper is undoubtedly guilty of having committed a breach of the privilege of this House.

Mr. NAZIRUDDIN AHMAD: Mr. President, Sir, may I join with my friend in supporting the dignity of the Chair? Although the Chair does not require any protection from any member of this House, yet I humbly submit that the dignity of the Chair has been attacked. There is a sinister insinuation in this passage, even though we know that the insinuation that the Chair has been guilty of having committed certain wrong things, is totally unfounded. This sort of insinuation is extremely objectionable and it is a breach of the privilege of the House.

Mr. PRESIDENT: This matter has taken me by surprise. Certainly any reflection on the impartiality of the Chair is a grave violation of the privilege of the House which must be protected. This is a matter for the Privilege Committee to enquire into and decide. As a preliminary remark, I must say however that I consider it within the legitimate rights of the editors of newspapers—the Chair considers it to be their duty—to pass any criticism that they consider fair, unless they attribute any motive. If they violate that principle, the House will have to protect its own privilege and it will be for the Privilege Committee to decide. I feel that the reporters of these newspapers, who attend the Council, are under great handicap. They are laymen and it is very difficult for them on particular occasions to truly appreciate the points that are discussed in the House. When serious questions involving jurisdiction and interpretations of intricate points of law are discussed, it is really very difficult to report. I found that none of these papers had the fairness to fully report the proceeding and my rulings, and naturally the poor sub-editors were led to draw conclusions and make comments *bona fide*, without intention to cast

any reflection on the Chair. But as I have said, it will be the duty of the Privilege Committee to decide that issue. As a matter of fact, I have still grave doubts in my own mind about the question of *ultra vires* being treated as a point of order at all, and I made it quite clear in my ruling. As a matter of fact, when next day the Maharaja of Santosh urged that the question must be considered as a point of order and should be decided by the Chair while motions are moved by member of the House, I did not answer the question, because I held that a ruling being once given, no member had any right to raise any other question on the point. But as a matter of indulgence, I generally make concessions to members. May I tell him now that under section 68 (4) of the Government of India Act, 1935, it is necessary for the President to put a question to the House even when it is not moved by any member of the House and Maharaja of Santosh should know that there are occasions when a question, though not moved by a member, has to be put by the President.

However, on this particular matter, all that I suggest is that if the House so desires, the matter may be referred to the Privilege Committee on a regular motion and if the Privilege Committee consider that further action should be taken, then alone it should be discussed in the House.

Mr. KADER BAKSH: Sir, I move that the matter be placed before a Privilege Committee.

Mr. PRESIDENT: Motion moved. The question before the House is that the matter be referred to the Privilege Committee.

The motion was adopted.

GOVERNMENT BILL.

The Bengal Tenancy Amendment Bill, 1938.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to present the report of the Select Committee on the Bengal Tenancy (Amendment) Bill, 1937—I mean the Committee that was appointed yesterday.

In this connection I would request that you may be pleased in exercise of the power vested in you to relax some of the rules so that the Bill may be taken into consideration to-day, which I do hereby move.

Mr. PRESIDENT: Has this report been circulated to the members?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: May I have a ruling from you, Sir, if the proceedings of a meeting of a Select Committee would be valid if all the members were not duly summoned——

Mr. PRESIDENT: Order, order. After the motion is moved, you may raise any point of order and you must say definitely what point of order you want to raise.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I want to raise this point of order—whether the proceedings of a meeting of a Select Committee is valid——

Mr. PRESIDENT: That is a question and not a point of order. You must now state for what reason you consider the question as out of order.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I want your ruling as to whether the report which was drawn up by a meeting of the Select Committee which was not properly constituted, is in order. Can I put it in this form——

Mr. PRESIDENT: You will have to state that "I consider this motion out of order because of these defects."

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I can easily do that. I thought it would be more courteous to put it in the form in which I did. I say, in my considered opinion, it is absolutely irregular to discuss any matter at a meeting of the Select Committee which was not properly constituted, for the simple reason that the members thereof were not summoned under the direction of the Chairman as is required and as is the established practice. If you go through the chapter devoted to the Select Committee in May's, you will find——

Mr. PRESIDENT: Order, order. I would like to draw the attention of the hon'ble member to section 13 (2) of the Rules and Standing Orders where it is laid down that, "any member may at any time submit a point of order for the decision of the President, but in doing so shall confine himself to stating the point". I wanted to hear your statement on the point.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Can I not advance any argument in favour of it?

Mr. PRESIDENT: No argument is necessary.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Can I not refer to any book of authority to justify it?

Mr. PRESIDENT: No, unless the Chair so desires.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I have got another point of order.

Mr. PRESIDENT: Let me decide this first.

Sir Bijoy, what have you to say on the point raised by Maharaja of Santosh, namely, that notices were not served on all the members of the Select Committee?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Notices were served on the members of the Select Committee and we followed strictly the directions given to the Select Committee by this House.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: In reply to what the Hon'ble Revenue Minister has said, I may tell him this that it is essential that notice should be served on each and every member of the Committee and reasonable facilities should be given to him to attend the meeting. If I am permitted to quote from May, I may say that in the House of Commons a Select Committee was actually revived on the ground that the adjournment of that meeting was irregular. May I, with your permission, read out the passage from May?

Mr. PRESIDENT: Yes.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: As I have observed, this is the Parliamentary Practice. May in his work says, "When no quorum is named it is necessary for all members of the Committee to attend; a new order of reference has nothing to do with the previous order of reference and it is binding on the Select Committee as it stands and cannot be turned from its true form and meaning or interpreted in the light of the previous order". The order of reference that this House gave last night did not mention any quorum and the inevitable result of that, according to the Parliamentary Practice, is that all members should attend the meeting in order to establish the fact that the meeting was properly constituted, but this was not done. Not only that, inadequate notice was given even to those who were present and many were not given

any notice at all. In these circumstances, if you would follow Parliamentary Practice, you shall have to rule this report out and ask the Select Committee to draw up their report at a properly constituted meeting. I think this House will be only too glad to extend the time of their report so that the report may be valid, complete and properly done.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I am very sorry to contradict the Maharaja. Notice was served on each and every member of the Select Committee and out of twenty-one members, nineteen attended. I do not think there is any substance in the contention of the Maharaja that notices were not served on some members. That is not a fact. Maharaja Bahadur ought to be very sure of his facts before he submits his point of order.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I am absolutely sure of my facts. May I say a few words in reply to what the Hon'ble Minister has said?

Mr. PRESIDENT: Yes.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: My point is this that the responsibility of the Chairman of the Committee does not cease when he has simply issued an impossible notice—by an impossible notice I mean a notice according to which the member is not in a position to act. Your responsibility will be fully discharged when you have issued a notice which it is possible for the member to comply with. What about the Parliamentary Practice that I have referred to? When no quorum is named, it is necessary for all members of the Committee to attend.

Mr. PRESIDENT: I cannot allow this sort of examination and cross-examination across the table. I shall have to exercise my own authority. Is there any note on this point in the dissentient note? If there is none, the House must accept the report of the Select Committee as it is. I find that there is no objection raised even in any of the dissentient notes by any member that the Committee could not properly function because of notices not being served. I do not find Maharaja of Santosh's name here in the supplementary report, but I understand on an enquiry from the Secretary that he himself signed the notice of the Select Committee meeting. So notice was served so far as he is concerned.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: May I submit my explanation with regard to that?

Mr. PRESIDENT: I do not require any explanation. A member is not bound to attend a meeting, whatever the reason may be. It was quite optional for the hon'ble member not to attend. If he liked, he could have sent his dissentient note.

As regards the other point raised regarding the suspension of the standing order, an exactly similar case happened when I was in the Central Assembly. It was on the 30th September, 1931. There is a proviso which runs as follows:—

"And such objections shall prevail unless the President, in exercise of his power to suspend the standing orders, allows motion to be made"; in this case, the Chair has no difficulty in exercising the power of suspension under this standing order in respect of the Bill which has now been placed before the House for consideration. This Bill is a copy of the Bill as reported by the Select Committee and it has been in the hands of the hon'ble members for more than a week. The object of this standing order is that the House should not be called upon to consider any legislative measure without having had an opportunity of studying it. It is clear that that has been complied with in this case. The hon'ble members have had ample opportunity of studying the Bill in the form reported by the Select Committee and the Chair has therefore no hesitation in suspending the Standing Orders and allowing the motion to be considered. Having regard to the special circumstances of the case, the amendments of which notices have been previously given, will be allowed to be moved with such modification as may be called for. I suspend the Standing Orders as I feel that the House will not suffer in the least, because of the fact that the Bill has been duly circulated and published in the *Gazette* sufficiently long time before.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: May I submit another point of order with regard to the Bill itself and on the basis of the report of the Select Committee? The changes that the Select Committee have effected and have altered the character of the Bill. May I cite certain examples from the *Parliamentary Practice* and tell you that the material change that has been effected in the Bill, has made it an entirely new Bill?

Mr. PRESIDENT: Order, order. The House will accept the Select Committee's report as it has been presented. If there has been material alteration requiring republication as it is now contended, the House has no right to go into the merits of that particular question. Of course it is quite open to the House to accept the Select Committee's report or not. The House can make any alteration it likes but it cannot go behind the report of the Select Committee as it has already been submitted.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: May I now develop my point of order?

Mr. PRESIDENT: On a point of order, there is no room for development. It must be a mere statement of the point.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Are you going to pass your judgment without hearing me?

Mr. PRESIDENT: Under section 13 of Rules and Standing Orders I shall confine myself to decide the point and it will be my duty to do so on my own responsibility. If I feel any necessity to consult anybody, certainly I shall do it.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Can I develop my point?

Mr. PRESIDENT: You cannot develop your point but you can state it.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Am I to understand that you are restricting me from exercising my legitimate right as a member of this House?

Mr. PRESIDENT: You must comply with the rule. You are to state your point. On a point of order there is no room for speeches. You are only to make a statement of the point. Of course if the Chair thinks that he is in need of hearing any arguments on the point, certainly he will request you to develop your argument. If he is satisfied that no speech is necessary, you have absolutely no right.

Mr. NAZIRUDDIN AHMAD: May I submit, Sir, that this is the uniform practice throughout the world?

Mr. PRESIDENT: Yes; this is the practice throughout the world; there is no room for a speech on a point of order, unless the Chair feels that he must have the argument of the members of the House. You must first state your point and then it is for me to see whether I should ask you to make a speech in development of your point.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Then, Sir, shall I not be able to develop my point of order, or make a speech?

Mr. PRESIDENT: Sometimes it is sufficient for me to accept a point of order from a mere statement, so it may not be necessary for me to ask you to make a speech in the first instance.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: All right, Sir, I will do exactly what you say, but I also want to give examples so that I may be able to convince the House of the justice of my cause.

Mr. PRESIDENT: I must make it perfectly clear that it is not for the House, as I have often said, to decide a point of order; it is the President who will have to decide a point of order on his own responsibility. He cannot share it with the House. What happens in the British Parliament is a little different. If you want authorities I can cite any number. In some countries the Chair shares this authority of deciding points of order with the House, but unfortunately it is not so in our Constitution. It is certainly within his rights, nay, it often becomes his duty to consult the House before he comes to a decision; but I must make it clear once for all, that on a point of order there is no room for speeches unless the Chair so desires.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: My point briefly in that case is this: the Select Committee has materially changed the character of the Bill and it has added a new chapter and the Select Committee itself has named it as a new chapter. The Hon'ble Revenue Minister observed yesterday that the Select Committee substituted chapter 13(A), but I beg to differ with him, for the simple reason that this new chapter was negatived by the Select Committee long before its introduction, and according to Parliamentary Practice, I submit that no amendment can thereafter be made, which is substantially identical with the clause that was actually negatived. So that is a blemish, and I might quote from May if you will permit me, Sir, to say that when Select Committees' reports have been presented to the House, points of order have been allowed to be raised with regard to them and the Chair, although it has always been anxious to safeguard the jurisdiction and authority of the Chairman of the Select Committee, has given its opinion with regard to those points; and generally courtesy demands that the Minister in charge of the Bill forthwith withdraws that Bill and introduces a new one.

Mr. PRESIDENT: Under our rules it was for the Select Committee to elect its own Chairman. They have done so, and they were fully within their rights to do so. And, further, the Chairman of the Select Committee has all the rights that appertain to the President in the Council. The President in the Council has no power to set at

naught the decisions that have been given in the Select Committee by the Chairman of the Committee; as the decision of the President is final here, so the decision of the Chairman of the Select Committee is equally final in the Committee. If May or any other authority holds to the contrary, I shall not follow him. We are bound to follow our rules. We may create convention only when there are no definite rules on the matter, but when there are definite rules, we are bound to follow them. I therefore hold that——

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: May I know which rule is that, which says that the ruling of a Chairman of a Select Committee is final, and that even when the report of a Select Committee is brought before the House, the President of the House is not competent to give a ruling with regard to those matters?

Mr. PRESIDENT: As I have said before, the President is not bound to give any reason for his ruling, but I shall be very glad to satisfy the Maharaja if he wants any authority that the decision of the Chairman of a Select Committee is final for the Committee; but I did not know that I would have to address on these elementary matters. If, however, the Maharaja wants to know more about them, I shall refer him to the authorities later on—there are any numbers of them.

However, I hold that the report as submitted by the Select Committee must be accepted by this House.

Mr. RANAJIT PAL CHOUDHURY: Is the Select Committee of this House subordinate to the House itself?

Mr. PRESIDENT: Yes, it is subordinate in the sense that the House has the right when referring a matter to a Select Committee to give instructions that they are to report on particular matters and special directions may also be given about the principle of the Bill. The scope of the Bill may also be defined for the Select Committee. These are the rights of the House, and in that sense you may say that being a Committee of this House, it is subordinate to the House. But so far as the rulings in the Select Committees are concerned, the Chairman of the Select Committee is absolutely on the same footing as the President is in this Council.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Is it not a fact that the Chairman is all powerful only during the sittings of a Select Committee, but not afterwards? I also think that his decisions are revised by the President when called upon to do

so, on the presentation of the report of the Committee. May I be permitted to give you an instance of what happened in the old Bengal Legislative Council?

Mr. PRESIDENT: Well, even if the facts are correct, I shall not be guided by the opinion of the old Bengal Legislative Council, because I am absolutely satisfied in my own mind that the Chairman of a Select Committee has the same right in the Select Committee as the President has in the Council.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I do not dispute this, Sir, as regards his authority in the Select Committee, but what happens afterwards?

Mr. PRESIDENT: No arguments or speech are allowed on points of order.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Then, Sir, shall I not be allowed either to develop my point of order or to quote any authority in support thereof?

Mr. PRESIDENT: Order, order. Unless the Chair feels that in this matter it desires to hear your arguments, it would not ordinarily allow any speech to be made. The Maharaja has an amendment,—and I think the very first amendment—stands in his name, and while moving that amendment he will get opportunity to develop his point.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I must bow down to your ruling, Sir, but I must also say that I feel that I have been restricted in the exercise of my legitimate rights and privileges as a member of this House.

Mr. PRESIDENT: Well, you may have your own opinion of the matter.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, I beg to move that the Bill be recommitted to the same Select Committee with instructions to examine as witnesses the Advocate-General, the Member of the Board of Revenue, the Divisional Commissioners, the Director of Land Records and the District Magistrates and Collectors, particularly with reference to such clauses of the Bill as affect enhancement and speedy realisation of rent, landlords' fees, the right of pre-emption and contracts relating to agricultural land without providing any compensation in respect of repealed rights in and over land and submit as soon as possible a fuller

report together with a complete and correct record of their evidence and of statements which may be submitted to the Select Committee on that behalf.

In my note of dissent which has been appended to the report of the Select Committee on the Bengal Tenancy (Amendment) Bill, 1938, I have made it abundantly clear that if the Bill is enacted, as it now stands, it will be a lawless law; I have proved beyond the shadow of a doubt that it seeks to legalise illegalities, and will not only introduce radical changes in the existing land laws, but will alter the character of the Permanent Settlement. It violates the fundamental principle of law by giving retrospective effect to some of its pernicious clauses, seriously affecting important rights in land and contracts in relation to agricultural land without making any provision whatsoever for compensation.

The object of the Bill is stated to be to lessen the burden on the cultivators and not to attempt a radical reform of the existing system of land tenure, but, in reality the Bill has gone beyond the limits thus defined by Government. The Hon'ble Revenue Minister who is probably making himself conspicuous by stage-acting,—playing the role which has been assigned to him by the stage-manager, absolutely relying on the promptings from behind the stage will perhaps deny this charge and go one step further and say that none of the provisions of his Bill will alter, or even has the tendency to alter, the character of the Permanent Settlement. I do not blame him; for I know he is like a square peg in a round hole——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am prepared to make room for the Maharaja Bahadur.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Most generous indeed; but, may I remind him what he, perhaps inadvertently, said during the debate on the proposal to refer his Bill to a Select Committee, with reference to the Permanent Settlement itself? Did he not by the few words he uttered on that occasion indicate the opinion of the present Council of Ministers about the Permanent Settlement when he described it as a measure which might have been good in the past? May I also remind him of what his colleague, the Hon'ble Finance Minister said on the floor of this House during the Budget discussion a few days ago? Did he not, perhaps also in an unguarded moment, say, in view of the tenancy legislation now on the anvil of the Legislature, that the Permanent Settlement was in the melting pot? May I further remind him of the opinion of the Director of Land Records who opined that section 52 of Regulation 8 of 1793 has been violated inasmuch as the Bill proposes to take away from the landholder his fundamental and irrevocable

right to impose on a tenant a fair rent, as the landholder thought proper, for an area not included in a tenancy? The right to demand and obtain transfer or landlord's fees when a holding or any part thereof is sold and the right of pre-emption are important rights in land and are inseparable from the proprietary right of the landholder in the soil. Sir John Shore collected a vast amount of information and he adduced that the universal testimony of the people and the proverbial expression that the lands belong to the zemindars and the rent to the King, is quite correct. The Permanent Settlement was based on the proprietary right of the landholder which was irrevocably recognised by the Sovereign power; but the Select Committee has laid its axe at the very root of it, although it is a matter of history that the Permanent Settlement was the legitimate result of the irresistible influence of justice and Lord Cornwallis and his co-adjutor, Sir John Shore, were only instrumental in giving effect to it. The Permanent Settlement has not only benefited the landholders but has also benefited the raiyats. Compare the agriculturists of Bengal with the cultivators of other provinces in India and even the hardest of our critics will be convinced of the truth that the tenants of Bengal are comparatively happy and prosperous. Our critics want to know what the landholders have done for the tenants in the matter of relief for drought or inroads of rivers. They should not forget that the landholders agreed to pay "road cess" because it was originally contemplated to create with the money collected as road cess a permanent famine relief fund. On the other hand it is undeniable that the Permanent Settlement has placed the finance of Bengal on a strong and durable basis and has directly benefited Government by securing punctual and unfluctuating payment of revenue. But I ask, what is the present Ministry doing for us? Are they not relegating us to the cold shade where slow death is creeping within us? Are they not showing a lamentable tendency to preserve and if possible add to the anti-landlord legislations? It is a natural sequence that a living community, conscious of its worth, gets exasperated in meeting with an unbroken series of hostilities on the part of the authorities to its capacity and aspiration, or to its realisation of its inherent rights. What have we done that they should think fit to lay their hand on our cherished rights and privileges which are based broad and deep upon the highest principles of jurisprudence? I feel it to be incumbent on me to warn the present Ministry against the danger of minimising the importance of landholders. I should like to tell them that we are not to be caught napping—we are fully alive to the situation which is being fast created around us by irresistible forces. Then again, why do they want to give the tenants an absolutely free hand in transferring their holdings to any person they like? Will not such unrestricted freedom lead to agricultural land being transferred to money-lenders or non-cultivating rent-collecting so-called cultivators? The

control which the landholders now exercise in this respect is undoubtedly a safeguard against this evil. The right of pre-emption is also a sufficient deterrent against under-estimation of the value of land. Sober and right-thinking tenants should realise the advantage of it and pray to God to save them from the hands of such legislators as actually think of obliterating the natural line of demarcation which exists between ownership and tenant right and attempt to tear away the tenant from the protection of his landholder to be exploited by rich neighbours. Why throw them to the wolves with no weapon of defence in their hand, save and except your latest edition of the Tenancy Act? To them self-help in such a contingency will mean servile dependence on legal practitioners and money-lenders. Their legal expenses and liabilities will increase by leaps and bounds and ultimately lead them to the verge of ruin. What is more astounding is that the same much-condemned right is sought to be given to the co-sharer tenant, as if he had property in land! Why raise in the breasts of the tenants hopes which can never be realised and thus foment unrest and discontent? Will not such a drastic step make the real proprietors of the soil supremely indifferent to all questions of land and agricultural improvements which can be hardly solved without their active assistance and co-operation?

Mr. HUMAYUN KABIR: May I rise on a point of order, Sir? As a member of the Select Committee it was open to the Maharaja of Santosh to ask that evidence be taken from competent members of the Board of Revenue and other officers mentioned here. Since that was not done in the Select Committee, can he now move a motion to that effect?

Mr. PRESIDENT: He has not raised that question, and even if he had raised it and had been defeated, that would not have precluded him from raising the matter here.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Thank you, Sir. All these point towards the necessity of further examination of the different caluses of the Bill in their true perspective by men who are endowed with expert knowledge and are competent to pronounce opinion on them in respect of their legal and constitutional aspects. I have named some in the motion which I have moved and I am prepared to add more names to my list if the House so desire. But let there be a thorough investigation, and the different provisions be closely scrutinised. I assure the House in the name and on behalf of the great landholding community that landholders are prepared to do full justice to the legitimate claims of the real tillers of the soil. We are determined to make any reasonable

sacrifice for rural uplift and agricultural development which will go to improve the lot of *bona fide* cultivators, but pray let not the intermediaries have a chance to raise a wall of stone between us and the tenants.

I think this Upper House was conceived and constituted by the British Parliament for the purpose of avoiding hasty legislations and to discourage, and, if possible, to stop hurricane methods of doing things by an unbridled democracy. The Permanent Settlement embodies in its framework a British pledge of a permanent value, and if the "Brown Bureaucracy" which is the creation of British Statute is allowed to ruthlessly break that irrecoverable pledge, it will undoubtedly shake our faith in British honesty and British justice which are the pillars of the British Empire. We have still faith in British statesman and administration, in the British Parliament and the British people. We shall wait and see what they do in this vital matter and then chalk out our path of salvation.

I once again appeal to the Hon'ble Revenue Minister, whom I find in a very cheerful mood to-day smiling all the time, to rise up to the height of his duty and to refuse to be driven to and fro by every gust of wind that blows towards him from his party. He will pardon me if I say that at the present moment, he is thinking more of the might of his party than the strength of the opposing forces. It will be a serious mistake on his part if he will decline to accept my reasonable proposal. Let him not forget that the ostrich makes a fool of itself by burying only its head in the sand in the face of an attack, leaving the rest of its body fully exposed to danger. Improve by all means the economic structure of the country. We are with you, we shall help you and we shall do all that lies in our power——

The Hon'ble Mr. NALINI RANJAN SARKER: As you have done all these years!

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Yes, have we not? I am glad of this admission on my friend's part.

But pray don't destroy it with ruthless measures and short-sighted policy. The present measure will not solve the bread problem of the real cultivators of the soil. It will not lead to any agricultural development worth the name or provide for our people in the rural areas productive work which constitutes the foundational solution of unemployment. We do not believe in tinkering with the land laws in this fashion. We want the Ministry to so alter the existing laws, and make such new laws as will lead to the adoption of an elaborate and complete rural reconstruction scheme within the scope of the Permanent Settlement based broad and

deep on a scientific and co-operative foundation for effecting agricultural and industrial development on a large scale, for increasing the income of the people in the rural area and for the improvement of village sanitation and education——

Khan Bahadur M. SHAMSUZZOHA: I rise on a point of order. Sir. The learned and hon'ble Maharaja of Santosh is only to address the House on the point as to the desirability of re-committal of the Bill to a Select Committee. He is not to make a lengthy speech.

Mr. PRESIDENT: That is not a point of order.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I am grateful to my friend for giving me a little respite, but I am drawing to my end.

Before I actually sit down, I hope he would have been able to digest what I have said, that he will remember all that I have said, that he will be brave enough, honest enough and courageous enough to rise up to the height of his duty and to show the courage of his conviction.

The Hon'ble Mr. NALINI RANJAN SARKER: He has not got a zemindar neighbour.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I am sorry I forgot that the Hon'ble Finance Minister has changed side——

Mr. PRESIDENT: Order, order. The hon'ble member must address the Chair.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I am addressing the Chair, but the disturbance came from the Treasury Bench which you, Sir, could not control.

Mr. PRESIDENT: There should be no interruptions.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Thank you, Sir. I was saying that something should be done to increase the income of the people in the rural area and for the improvement of village sanitation and education. Let the Ministry draw up a scheme which will bear scrutiny. We know that the tenants' cause is our cause, and that we rise or sink with them. As regards the Bill under review, let it be sent back to the Committee for a closer

examination of its clauses in the light of expert and first hand knowledge. As it is, I am afraid it will not solve the poverty problem of the raiyats.

Mr. PRESIDENT: Amendment moved that the Bill be recommitted to the same Select Committee with instructions to examine as witnesses the Advocate-General, the Member of the Board of Revenue, the Divisional Commissioners, the Director of Land Records and the District Magistrates and Collectors, particularly with reference to such clauses of the Bill as affect enhancement and speedy realisation of rent, landlords' fees, the right of pre-emption and contracts relating to agricultural land without providing any compensation in respect of repealed rights in and over land and submit as soon as possible a fuller report together with a complete and correct record of their evidence and of statements which may be submitted to the Select Committee on that behalf.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, it is my misfortune every time to oppose the Maharaja of Santosh, and I do so also on the present occasion. I wish, Sir, I could emulate his example by entering into the history of origin and development of the Permanent Settlement. But I do not propose to do so, because the time of the House is much too valuable, and we are all in a businesslike mood, and are anxious to dispose of the business as quickly as we can.

There are one or two points to which I would like to reply. The Maharaja Bahadur has charged me with stage-acting, with somebody prompting me from behind the screen. There also I wish I could emulate his example. I am sure his audience, the landlords' constituency of the Dacca Division will take a note of his acting, and will not throw him out, but elect him for the services that he has been trying to render to the landlords of that division.

Mr. RANAJIT PAL CHOUDHURY: What about your constituency? Burdwan Division has taken a note of it.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: My constituency is sober, reasonable and dignified, and cannot be easily misled and that is why I am here in spite of the friendship of my friends opposite.

Now, Sir, the Maharaja Bahadur has said that this legislation will cause slow death to the zemindars, and that it is a piece of anti-landlord legislation. I can assure the hon'ble member that the Government are not inclined to be anti-landlord. They are only anxious to bring about an adjustment between

the landlords' and the tenants' interests. The time is moving, and the society has to move with time, and we are only asking, by introducing this legislation in the House, the landlords to move with time. My hon'ble friend the Maharaja of Santosh is not inclined to do so, and I am sure before long he will realize his mistake. (Question!)

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I am moving with the time.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the Maharaja Bahadur says that by giving the right of pre-emption to the co-sharer tenant you are taking away the incentive of the real owner-proprietor of the soil for agricultural improvement. May I just put one question to him? He has been a zemindar for a very long time. He has been managing his estate. What improvements has he brought about in his estate? Did he ever care to live on his estate, not to speak of bringing about any actual improvement?

Mr. PRESIDENT: Order, order. The Chair expects that there should not be mutual recriminations on the floor of the House.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am sorry, Sir. I am not inclined to indulge in mutual recriminations, but as the Maharaja Bahadur did choose to make some personal attacks, I thought I had to reply to some of his points. Now, I shall bow down to your ruling and drop the point.

The next point is whether the Bill should be recommitted to a Select Committee for the purpose of examination by experts on certain points. My submission is this: that it is absolutely unnecessary, because, the Bill has been before the public at least since August last, and the clauses of the Bill involve changes which have been before the public at least since 1928, and public opinion has already crystallized on those points. Government had ample opportunity of consulting legal opinion, and their revenue experts before they framed the Bill. So, no useful purpose will be served by referring this Bill to a Select Committee. This House, as well as the other House, are fully representative bodies, and they represent public opinion and public interest, and this House consists of many legal luminaries, revenue experts, many zemindars and businessmen, who are persons of a large experience, who can certainly give a reasonable and useful shape to the piece of legislation that the Government have introduced and have introduced with the sole object of bringing about an adjustment between the landlords' and the tenants' interests. Government, I

repeat before I sit down, are not inclined to be anti-landlord. I can assure my landlord friends that their interests are in the safe keeping of Government.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir. I rise to support the motion so ably moved by my hon'ble friend on the right. Sir, when a Bill is introduced in the British Parliament it is customary to get the opinion of the public first and then to refer it to the Select Committee. In the annals of the British Parliament there has been no occasion when the public opinion has not been sought or the Bill has not been referred to the Select Committee. We have popular Ministers under the new Constitution but unfortunately they did not think it proper to take public opinion for so important a measure like this. They did not attach any importance to the opinion of the public and they have flouted it which the British Parliament dare not do. This Bill, which is of a very important nature, which deals with money matters, which deals with the rights of a certain class of people and which purposes to alter greatly the statutory rights and privileges of the landowning class, had not been referred for the opinion of the public.

Mr. LALIT CHANDRA DAS: On a point of order, Sir. My friend, it seems, is speaking on item No. 2 of the List of Amendments "that the Bill be recommitted with power to consult public opinion", but the motion that is before the House is that witnesses such as the Advocate-General, Member of the Hon'ble Board of Revenue, and others should be examined.

Mr. PRESIDENT: What is your point of order?

Mr. LALIT CHANDRA DAS: My point of order is that my friend should confine himself to item No. 1 of the List of Amendments and to nothing else.

Mr. PRESIDENT: He is doing that.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I am coming to that.

But here, Sir, unfortunately public opinion had not been taken. With regard to the point of order raised, I may say that I am going to develop my point shortly. My line of argument is that public opinion is required because the members of the Select Committee may frame their opinion on the basis of the public opinion. They can alter and amend the sections of the Bill on the line of public opinion.

That is the point which I am going to say. Sir, at present the Bill has not been referred to the public for their opinion but has been referred to the Select Committee.

Sir, the British Parliament is the ideal Parliament and we try to follow them as much as possible. I cannot understand how the present Government have acted against the ideal. Apart from this, the other day, in this House, when several non-official motions had been introduced, they had been put in circulation for public opinion and most of the motions were moved by Hon'ble Ministers. I was under the impression at that time that good sense had prevailed and the Government wanted to act constitutionally and in accordance with the practice of the British Parliament. But now I am surprised to find that they do not act on that principle. They have deliberately made a distinction between official and non-official Bills. According to them the non-official Bills cannot expect the treatment which the official Bills will get. This is to my mind an insult not only to the father of the Bill and to the members, but to the whole House. I cannot make out how the members can delete it now. The Ministers are not officials. They are elected by the people and still they do not attach any importance to the public opinion because they have been placed in a higher position. They have certainly insulted their brother non-officials by acting in this way. But I am glad to find that the Bill had been sent at least to the Select Committee. I was under the impression that the Select Committee in the absence of public opinion, would take the evidence of some public bodies, so that the value of public opinion is recognised to a certain extent. The Hon'ble Minister has stated that the Bill has been in the House for a long time and that the public might have come forward to express their opinion by that time; but, Sir, perhaps he knows very well that the public are very reluctant to give their opinion on the Bill unless they are invited to do so. If any one come forward voluntarily, the Government will say, "I have not asked you to do so", and he would in that case be placed in a very awkward position. I do not, at present, wish to recapitulate the merits and demerits of the Bill or the past history. The point is this that in the absence of public opinion, it is desirable for the Select Committee to take the evidence of experts as has been pointed out in the motion of the Maharaja. So I think it is desirable that the Bill be recommitted and the opinions of all grades of people taken.

Mr. KHORSHED ALAM CHOWDHURY: Mr. President, Sir, I rise to oppose the motion of my esteemed friend the Maharaja of Santosh, the object of which is to delay, if not to kill the proposed measures as evolved out of the Select Committee. It takes my breath away to think of the intention underlying the motion which on the face of it appears to be very innocent. I was one of those fortunate or

unfortunate members of the old Legislative Council in which the amended Act of 1928 was passed. I was then in good company, for the Hon'ble Sir Bijoy Prasad, some Hon'ble Ministers of the present Cabinet and some of the hon'ble members of the Opposition were with me then, in imposing salami on the tenantry and in granting right of pre-emption to us, the zemindars. Time has greatly changed and is fast changing. World is passing from oligarchy to democracy and from democracy to dictatorship. So like others, I have changed my views. Now I feel that something definite, some tangible measures must be undertaken to save the tenantry, the country's pride, which once destroyed, can never be revived. The object of the motion is to delay the passing of the Bill but the province wants some immediate relief—some legislative enactment to save the interests of the tenants. If we be blind to our surroundings, if we ignore world factors and facts of everyday happening in and around India and consider ourselves immune to these world factors, if we conceive blindly that our position is most secure and India is not like other countries, we shall be under a self-delusion, and thereby we shall be only deceived and shall have to repent later of our own folly and ignorance. The present Bill as emerged out of the Select Committee, though incomplete, will to some extent, remove the hardship now being inflicted on the tenantry by the operation of the Amending Act of 1928. Government has not been bold enough to take courage in both hands and grapple the situation with all its bearings and evolve out a more detailed Bill to save the tenantry from destruction and ruin. I wonder that even this modest improvement on the existing law should meet with such opposition from the landlords. Why should we consult officials? We come from villages and we know much about our tenants. Time is fast coming and surest indication of its approach is distinctly visible in the eastern horizon when the tenants will force you to undertake more lenient measures to ameliorate their condition. Measures which the zemindars are reluctant to enact now, will be found quite inadequate to satisfy the demands of the tenants a few years later. Some hon'ble members of this House have been led to believe that if any lenient measures be granted to the tenants, the tenants' movement will be redoubled and landlords as a class, will be completely wiped out. The apprehension that the proposed lenient measures will give the tenants a handle to drive the landlords to extinction, is absolutely baseless; on the other hand, the denial of these measures will tend to create an agitation of far-reaching consequences, which will be fatal to the interests of the landlords in these days of decadence of ignorance and the gradual awakening of consciousness of their self-interest.

We are working a constitution imposed on us by the British Government and we are true to our salt, for the British Government with

a parental affection is teaching us the art of administration step by step with a benevolent motive lest we become spoilt children. If I am permitted for one moment to comment on the want of foresight on the part of the British Government, I should like to say that if they granted us thirty years ago what we then wanted, then that would have pacified the state of things for at least a century. What we have now been given is not perhaps far short of what we then demanded, but the lapse of time in granting this has served only to broaden the outlook of the country and to increase our demand and hence what we have now got is not sufficient. Our adamantine attitude now will force us in future to a bitter position. I warn the House, especially my brother zemindars, to take this as a word of caution and not to adopt this British policy. If you, the zemindars, oppose this modest amendment, you will be caught in the meshes of your implication and complication, of your omission and commission, and of your unsympathetic and tyrannical way of benevolent disposition. We the zemindars are afraid lest our rights are curbed and, our position as a dominant factor in society falls low, and lest the tenants become the virtual owners of the soil. My friends, if you do not adopt a reconciliatory attitude now, all these and more will be in store for you. Sacrifice something now and regain the lasting confidence of the tenants that you are their friends and well-wishers. As trust begets trust, so confidence will gain confidence. I, therefore, appeal to the Maharaja the mover of the motion, to withdraw it and finally I appeal to the hon'ble members of this House, through you, Sir, to pass the Bill with some beneficial alterations here and there.

Mr. D. H. WILMER: Mr. President, Sir, I rise on a point of order on the proposed amendment. I submit, Sir, that the proposed amendment assumes that the Select Committee——

Mr. PRESIDENT: Mr. Wilmer, does your point of order relate to the amendment of the Maharaja of Santosh?

Mr. D. H. WILMER: Yes, Sir.

Mr. PRESIDENT: The amendment has already been moved, and it is before the House. So, you are too late and you are out of order.

Rai KESHAB CHANDRA BANERJEE Bahadur: Mr. President, Sir,——

Mr. HUMAYUN KABIR: On a point of information, Sir. Is the Rai Bahadur moving his own amendment or speaking on the amendment of the Maharaja of Santosh?

Mr. PRESIDENT: He is speaking on the amendment of the Maharaja of Santosh.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, I rise to support the motion moved by the Maharaja of Santosh. In doing so, I shall confine myself strictly to the points at issue, viz., the desirability of referring the Bill back to the Select Committee. Khan Bahadur Shamsuzzoha has drawn the attention of the members to the necessity of strictly confining one's speech to the relevant points under discussion. I agree with him and shall accordingly try to be brief.

Sir, it is astounding that out of twenty-seven members of this House, excluding the Hon'ble Minister in charge of the Bill who constituted the Select Committee, as many as twenty-five members have submitted minutes of dissent——

Mr. HUMAYUN KABIR: The number is twenty-six and not twenty-five.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, I am thankful to Mr. Humayun Kabir for correcting me; his statement strengthens my position. I am not aware of any measure in regard to which such a wide divergence of opinion exists. Nobody wants that the tenants should be exploited and thereby reduced to the position of mere serfs or day-labourers. On the contrary, every one recognises the necessity of providing relief for them. In the Statement of Objects and Reasons attached to the Bill, the Hon'ble Minister stated that the main object of the Bill was to give relief to the cultivators. But I have grave doubts as to whether the proposed measure will benefit the tenantry at all. There are some provisions in the Bill, such as the right of free and unrestricted transfer of *jotes*, which will ultimately deprive them of their lands as all the lands will in course of time pass into the hands of money-lenders or non-agriculturists. The Bengal Tenancy Act, as amended in 1928, introduced a clause regarding the exercise by the landlord of the right of pre-emption. This right was incorporated into the body of the Bill after a very careful consideration. Now, Sir, anybody who is acquainted with the system of zemindari management, is well aware that the right of pre-emption is exercised only when there is a necessity for it, and that too at the instance of the tenant concerned. It is often argued, Sir, that the landlords generally exercise the right in their own interest. I join issue with those who speak in this vein as such instances are few and far between. There are not many instances to show that this right has been exercised by the landlords for their own benefit. But, Sir, there are cases within my knowledge in which tenants were driven by

sheer necessity to seek the protection of their landlords against unwelcome intruders, and in such cases only the landlords exercised the right of pre-emption. Cases are not infrequent where a tenant out of personal enmity with his co-sharer or neighbour sells his land in order to put the latter into difficulty. In such cases alone, the landlord is approached to protect his tenant from the machinations of the seller. The 1928 measure was the result of a compromise arrived at between the landlords' group and the representatives of the tenants in the old Bengal Legislative Council.

Mr. KADER BAKSH: Question!

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, I shall state certain facts which will prove beyond doubt that the statement cannot be questioned. In 1928, some of the rights vested in the landlord by the Bengal Tenancy Act of 1885 were taken away, and in order to create an atmosphere of goodwill, the landlords' group agreed to a compromise with the guardians of tenants' interests. For instance, under the provisions of the old Act, a tenant could not cut down trees, excavate tanks and erect *pucca* structures without the consent of the landlord. These provisions were deleted to meet the wishes of the tenants and the amending Bill of 1928 was passed into law. Now, Sir, the present Bill contains some provisions which would practically revolutionise the entire revenue system of the province. Those who think that such a change would confer a great boon on the tenantry and would improve their financial condition, are hopelessly mistaken. It is quite plain that instead of doing any good to the real tillers of the soil, the proposed measure will provide ample opportunities for non-agriculturists to concentrate on land and employ the cultivators as labourers under them.

Sir, I would now refer to section 26 (G) of the Bengal Tenancy Act, or in other words, clause 7 of the Bill, which deals with the question of usufructuary mortgages. Although the period of fifteen years has been extended by the Select Committee to twenty-five years, the main problem remains unsolved. It seems that this provision aims at doing away with long term usufructuary mortgage beyond twenty-five years which was created before 1928. Now, in Eastern Bengal districts, innumerable usufructuary mortgages are to be found extending up to ninety-nine years, and although apparently they are usufructuary mortgages, they are in fact out-and-out sales with proper consideration, and the transactions were entered into only to avoid *khas* possession by the landlords on the ground of non-transferability. On these holdings, houses, gardens, tanks and other improvements have been made by the ordinary usufructuary mortgagees without taking into

account that these valuable rights might be taken away by one evening's vote in the Legislature. Now, if this measure is passed into law, I am afraid, grave consequences will follow. There are other questions involving intricate points of law which have not been carefully gone into and I doubt very much whether the Bill, if placed on the Statute Book, will be helpful to anybody including the tiller of the soil for whose benefit evidently this law is going to be enacted.

Sir, the Hon'ble Minister has said that the object of the Bill is to bring about adjustments between landlords and tenants and that the landlords would be well-advised to move with the times. Sir, to use the words of Sir Walter Scott, "Time rolls its ceaseless course"; but we cannot roll on for ever with our means of subsistence, gradually disappearing, thanks to the benevolence of our legislators. As I have already said, the points of view of the tenantry were very ably put forward by the tenants' representatives on the old Legislative Council.

Mr. NARESH NATH MOOKERJEE: On a point of order, Sir. Is the hon'ble member permitted to speak in this general way in supporting or moving a particular amendment of the Bill before the House?

Mr. PRESIDENT: The point is that the original motion that the Bill be taken into consideration as well as the amendment are before the House. So he can speak on the general question.

Mr. KADER BAKSH: Sir, may I know if there is no time-limit for any member? Is he entitled to go on speaking for an unlimited period?

Mr. PRESIDENT: Ordinarily there is no time-limit.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, my hon'ble friends should have a little patience. The zemindars showed their sympathy for the tenants by sacrificing certain valuable rights in 1928. Then again, the House will perhaps remember that a statement has recently been issued over the signatures of a large number of prominent landholders condemning in no uncertain terms the practice, if any, of realising *abwabs*.

Khan Bahadur ATAUR RAHMAN: It is still going on.

Rai KESHAB CHANDRA BANERJEE Bahadur: I have grave doubts about that. The grievance is more imaginary than real.

In view of these facts, I do not think any necessity has arisen further to curtail the rights which have been enjoyed so long by the

land-owning classes. I may remind the House that before the Bengal Tenancy Act of 1885 was enacted, there was a Rent Commission appointed by Government and they went thoroughly into every question connected with the land and reviewed in detail the results of the quinquennial and the decennial settlements and then after mature consideration, the Permanent Settlement was granted and the Bengal Tenancy Act was passed on the basis of that settlement. That being the case, the members of this House should weigh very carefully the possible effects of this legislation and consider whether or not the situation has now arisen to justify the amendment of the existing law which is calculated to revolutionise the entire revenue system of Bengal and bring in its train untold complications to the utter detriment of all concerned.

Sir, the landlords are often subjected to unmerited criticism and at times unseemly epithets are used by their critics. Our detractors do not hesitate to call us "blood-sucking tyrants" and "vampires". I may remind the House that the interests of the landlords and the tenants are indissolubly bound up together. The extinction of one class means the extinction of the other. So it is not in the interests of the landlords to bring about the ruin of their tenants. The agitation engineered against them is more political than economic and the inevitable effect of it will be chaos and disruption in society. In fact the tenants have very little grievance against the landlords. These are imaginary grievances and the feeling against the landholding community is fanned by a certain section of political agitators to serve their personal ends. With these words, I support the amendment.

Mr. KADER BAKSH: Sir, I would only try to give some answer to the contentions of the Maharaja of Santosh, the Raja Bahadur of Nashipur and Rai Keshab Chandra Banerjee Bahadur.

The Maharaja of Santosh was a member of the Select Committee and he knew full well when that Committee was proposed in this House. At that time he did not raise the point of including these important persons in the Committee, or for their examination as experts. Then, Sir, he attended the meetings of the Select Committee every day and is aware of everything which took place there. But now he comes with a very extraordinary proposition that the Bill be recommitted to the same Select Committee to include these people or for their examination.

Now, Sir, suppose it is recommitted to certain other Select Committee or the same Select Committee and to-morrow if that composition does not suit me, I would come and ask for inclusion of other persons. Again, another day, the Congress Group may suggest another Select Committee. In this way, it will go on. So there is no justification

for the Maharaja to come up with such a preposterous suggestion. If he wanted these experts to be included in the Committee or for their examination, he ought to have suggested their names at the time when the Committee was formed in this House. He was present all along.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, may I know if a member is entitled to divulge in this House as to what happened in the Select Committee?

Mr. PRESIDENT: What passed in the Select Committee is confidential.

Mr. KADER BAKSH: I am not giving out what happened in the Select Committee.

Then again, the Rai Bahadur has said that the interests of the zemindars are identical with those of the tenants. I do not agree. I do not know if the hon'ble member comes from Honolulu or any other part of the world. If he is a man of Bengal—I have no doubt that he is so—and if he has not shut his eyes and closed his ears, he must have known the feeling——

Rai KESHAB CHANDRA BANERJEE Bahadur: On a point of order, Sir. Is the hon'ble member of this House entitled to call another member of this House an outsider, a non-Bengali when in fact he knows that the hon'ble member has not come from Honolulu? May I take it that he comes from Kumskatka?

Mr. PRESIDENT: That is not a point of order.

Mr. KADER BAKSH: I did not say that the hon'ble member has come from Honolulu. He is not a man of Kamskatka, he is not a man of Scandinavia, he is a man of Bengal and if he had not turned his ears or shut his eyes I say he must have known the conditions of the tenants in this country. Being a man of Dacca, he knows full well that the interests of the tenants are diametrically opposed to those of zemindars and he said that the zemindars are not blood-suckers. While he was making an assertion here that the interests of the tenants and the zemindars are identical, Government knowing the feeling of the people brought in this Bill. This Bill wants to give some relief to the tenants. I am a zemindar myself.

Rai Sahib JATINDRA MOHAN SEN: The cat is out of the bag.

Mr. KADER BAKSH: I know the feeling of the people.

Mr. SHRISH CHANDRA CHAKRAVARTI: This reminds us of the story of your being beaten by your tenants.

Mr. KADER BAKSH: The Maharaja of Santosh suggests that this Bill be sent back for public opinion. He fully knows what public opinion is in this province.

My friend Rai Bahadur referred to the compromise of 1928 and I may say that it was no compromise. I was a member of that Council; it was the result of coercion brought upon the tenant. It was indeed a political move and not an honest compromise. The Congress wanted to crush the constitution of that time. There was a talk of that kind. The amendment was forced upon the people, although many raised their voices against it.

Mr. SHRISH CHANDRA CHAKRAVERTI: Is the hon'ble member entitled to speak about the so-called compromise as being "not honest"? Can he impute motives?

Mr. KADER BAKSH: It was not a compromise in its character. It is only on account of political reasons that Bengal Tenancy Act is now before the House. Therefore, I say that it was for political reasons called a compromise. It was a one-party affair. The Congress was very powerful and the Maharaja knows full well that it was an arrangement with the zemindars and the Congress party. (Question!)

Mr. PRESIDENT: Order, order. May I remind you that any reflection on the proceedings of the previous Council will not be in order?

Mr. KADER BAKSH: I am sorry for that. With these words I oppose the Maharaja's amendment.

Mr. HAMIDUL HUQ CHOWDHURY: I move that the question be now put.

Mr. PRESIDENT: Up till now not a single member of the Opposition has spoken.

Mr. LALIT CHANDRA DAS: Sir, we on this side of the House oppose the amendment of the Maharaja. He has proposed in the amendment that the Advocate-General, the Member of the Board of Revenue, the Divisional Commissioner, the Director of Land Records and the District Magistrates and Collectors are to be examined for the purpose of eliciting the information whether the enhancement and speedy realisation of rent, landlords' fees, etc., etc.——

Mr. PRESIDENT: The hon'ble member need not read the amendment.

Mr. LALIT CHANDRA DAS: The amendment wants that the Bill be recommitted to the same Select Committee and these gentlemen should be examined by the Committee. The object of the Bill is to lessen the burden on the cultivators and not to make any radical change in the existing system of land tenure and a Rent Commission will soon be sitting in order to take evidence as to how far the Permanent Settlement can be touched and, if so, to what extent and also to consider various other questions regarding the relationship of the landlords and zemindars with the tenants. There the evidence of these gentlemen may very well be taken, but so far as this particular amending Bill is concerned, it aims only at lessening the burden of the cultivators and not at making any radical reform in the existing system of land tenure. With these words I oppose the amendment of the Maharaja of Santosh.

Mr. PRESIDENT: The question before the House is that the Bill be recommitted to the same Select Committee with instructions to examine as witnesses the Advocate-General, the Member of the Board of Revenue, the Divisional Commissioners, the Director of Land Records and the District Magistrates and Collectors, particularly with reference to such clauses of the Bill as affect enhancement and speedy realisation of rent, landlords' fees, the right of pre-emption and contracts relating to agricultural land without providing any compensation in respect of repealed rights in and over land and submit as soon as possible a fuller report together with a complete and correct record of their evidence and of statements which may be submitted to the Select Committee on that behalf.

The motion was negatived.

Clause 1.

Mr. PRESIDENT: The question before the House is that clause 1 stand part of the Bill.

Mr. HUMAYUN KABIR: Sir, I beg to move that in clause 1 for sub-clause (*2*) the following be substituted, namely:—

"(*2*) it shall take effect as from the 14th April, 1938."

My purpose in moving this amendment is that we should fix a definite date when this Bill will come into force. When the Bill was originally presented to us it was drafted in a way which left——

Mr. PRESIDENT: Order, order. I made a mistake. The question before the House is that the Bill be taken into consideration.

The motion was adopted.

Clause 1.

Mr. PRESIDENT: The question before the House is that clause 1 stand part of the Bill.

Mr. HUMAYUN KABIR: I beg to move that in clause 1 for sub-clause (*2*) the following be substituted, namely:—

"(*2*) it shall take effect as from the 14th April, 1938."

As the Bill stands to-day after amendment by the Select Committee, there is no knowing when the Bill will come into force. Of course the argument was advanced that the Bill would require the assent of the two Houses and then go to the Governor for his assent before it becomes an Act. Therefore, it was agreed, it is difficult for the House to fix any definite date as to when it will come into force. I submit that since in the other provisions of the Bill it has been proposed that we fix a definite date for the provisions of the Bill to come into force, there is no reason why this Bill as a whole when it becomes an Act, should not come into force on a particular day. The reasons for fixing a particular date are two-fold. First of all, we want to exercise a certain amount of pressure upon Government in order that the matter may be expedited so that there will be no delaying tactics and that they may take every possible step in order to make the Bill into an Act as early as possible. But there is an even more important reason why we should fix a date when the Bill ought to come into force. As soon as there was talk of legislation—it was about a year ago—certain steps have been taken by landlords and intermediaries which have gone against the interests of the tenants. When the Bengal Tenancy (Amendment) Bill, 1938, was on the anvil, when it was known that amendment was in the interest of the tenants, the landlords felt that they would have to abandon some of the alleged rights which, in our opinion, they have unjustly usurped from the tenants. When they became conscious of that, they immediately took steps in order to safeguard in future against any encroachment upon their rights. In many parts of Bengal, there have been cases instituted to buy up occupancy rights of the tenants by the zemindars. Therefore, we must, in order to remove any ground for uncertainty and in order to protect the tenants who may otherwise suffer more than is necessary, fix a definite date when the Bill is to come into force and I have suggested the 14th April, 1938, on account of the fact that this

date corresponds with the 1st of Baisak when the agricultural year in Bengal begins. I may also add that accounts are kept from that particular date.

Therefore, in order to exert pressure on Government and persuade them to expedite the Bill and make it into an Act as early as possible and to get an earnest of the sincerity of Government, it is necessary that we should fix a particular date; even more than that, Sir, in order to protect the interests of those tenants who are affected by the uncertainty of what is going to happen in the meantime, it is necessary——

Mr. RANAJIT PAL CHOUDHURY: May I rise on a point of order, Sir? Are hon'ble members entitled to utilise this House as their ante-chamber and drink water in the House instead of going to the lobby to do so?

Mr. PRESIDENT: It is desirable that hon'ble members who want to drink water should go into one of the lobbies and take water there. Yes, Mr. Kabir!

Mr. HUMAYUN KABIR: I was concluding, Sir, because I do not want to take up more time of the House than is absolutely necessary. I was saying that in order to exert pressure upon Government and as an earnest of their sincerity to give effect to this Bill as early as possible, it is necessary to fix a particular date by which they should try to make it into an Act, and even more than that, Sir, in order to protect the interests of the tenants who will suffer from uncertainty if the date is left unspecified, it is still more necessary that such a date should be fixed. With these words, Sir, I commend my motion to the acceptance of this House.

Mr. PRESIDENT: Motion moved that in clause 1, for sub-clause (2), the following be substituted, namely:—

"(2) It shall take effect as from the 14th April, 1938."

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, I rise to oppose the motion. It is an impracticable proposition for the simple reason that considering the number of amendments that have been tabled for discussion, it will take a long time to dispose of them, unless, of course some of them are not moved, and then it will go to the Lower House for consideration, and if the Lower House does not accept the Bill, as passed by this House, then a joint meeting of both the Houses

will have to be summoned to consider the Bill. The assent of His Excellency the Governor and the Governor-General will be necessary before the Act is brought into operation. So, the effect of this amendment, if carried, will be to compel the Governor and the Viceroy to give assent to the Bill without due consideration of the provisions contained therein. For this reason, I oppose the amendment.

I strongly repudiate the suggestion made by Mr. Humayun Kabir that in some districts landlords are trying to purchase occupancy rights. It is far from being true, because the landlords have no money to purchase *jotes*. The non-realisation of rent and the consequent accumulation of arrears has adversely affected their financial position. Such an irresponsible statement coming as it does from a responsible legislator, is highly regrettable. I, therefore, oppose the amendment.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, it is necessary that some points should be cleared up. There is an impression that the effect of this amendment is only to make the Bill into a law from some particular date. That, Sir, is not the intention of this amendment. The intention of this amendment is that from a certain date the provisions enunciated in the Bill shall come into operation and all transactions contrary to those provisions of law which are going to be made by this Bill will fall through. Whether the Bill becomes law long after or before the date, is immaterial. We have a shrewd suspicion that there is a desire in some quarters, either on the part of Government or of the Opposition or even of some members of this House, to delay, as far as possible, this Bill coming into operation. We want to put a stop to this. As soon as we have accepted this that the Bill shall become law or in other words that the clauses of the Bill shall become law and shall have effect, whenever they are ultimately accepted by the authorities, from this date, namely, the 14th April, 1938, the incentive to delay will be taken away. Therefore, it is not a fact that the intention of the amendment is to say from which date the Bill will be passed into law, but to lay down a date from which the law will be operative. It may be that the Bill will be passed into law long after that, but, irrespective of the date of its being passed into law, what is intended here is that this date will be taken as the date after which all transactions entered into which are contrary to the provisions of the Bill, will fall through, and will be governed by the provisions of this Act. Therefore, I submit that there is nothing wrong in the substance of this amendment and I commend it to the acceptance of this House.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It may perhaps shorten the debate if I just explain at this stage what we propose to do. Government will be ready to accept amendment No. 7 of the List of

Amendments which stands in the name of Maulana Akram Khan which proposes that the Act should come into operation on the 31st of May, 1938.

Mr. HUMAYUN KABIR: Is that amendment before the House now?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, but perhaps there is no harm in referring to it as to what Government propose to do.

Mr. HUMAYUN KABIR: Therefore, I take it that Government accept the principle that a date ought to be fixed, with perhaps this exception that they have a peculiar horror of the date 14th of April, suggested as it is, by a member who is in the Opposition.

Mr. PRESIDENT: The question before the House is that in clause 1, for sub-clause (*2*) the following be substituted, namely:—

"(*2*) It shall take effect as from the 14th April, 1938."

The motion was negatived.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that in clause 1 of the Bill the words "not later than one month after it receives assent" be omitted.

In moving this amendment, I beg to state that the expression "not later than one month after it receives assent" puts an unnecessary restriction on the discretion of the Provincial Government. So far as we all know, the Government are not less anxious than the most eager amongst us to place the law on the Statute Book as early as possible. But these words in the clause mean as if the Government are anxious to postpone its operation. Government, as sponsors of the Bill, should decide when its operation should commence. It is an unusual restriction, and I, therefore, move that this restriction should be removed. My amendment is a most inoffensive but a business-like amendment, and I hope that the Government and other groups will accept it. The Hon'ble Revenue Minister has said that the Government will have no objection to accept the amendment of Maulana Muhammad Akram Khan. But there, Sir, a definite date has been stated, and there may be some difficulties in having the operation of the Act to commence from the 31st May. So in order to obviate all possible difficulties I propose that no date should be fixed, but everything should be left to the discretion of the Government. They should be the sole judge to decide as to when this Bill should come into operation.

Mr. PRESIDENT: The question before the House is that in clause 1 of the Bill the words "not later than one month after it receives assent" be omitted.

The House divided:—

AYES.

Banerjee, Rai Bahadur Keshab Chandra.
Bose, Rai Bahadur Manmatha Nath.
Mukherji, Rai Bahadur Satis Chandra.
Ray Chowdhury, Maharaja Sir Manmatha Nath, of Santosh.
Sen, Rai Sahib Jatindra Mohan.
Singh Roy, Mr. Saileswar.
Sinha, Raja Bahadur Bhupendra Narayan of Nashipur.

NOES.

Ahamed, Mr. Nur.
Ahmad, Mr. Naziruddin.
Ahmad, Mr. Mesbahuddin.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Chaudhury, Mr. Muazzamali.
Chowdhury, Mr. Hamidul Huq.
Cohan, Mr. D. J.
D'Rozario, Mrs. K.
Dutta, Mr. Kamini Kumar.
Elahi, Khan Bahadur S. Fazal.
Esmail, Khwaja Muhammad.
Haider, Nawabzada Kamruddin.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Mohamad.
Huq, Mr. Syed Muhammad Ghaziul.
Kabir, Mr. Humayun.
Khan, Khan Bahadur Muhammad Asaf.
Khan, Maulana Muhammad Akram.
Momin, Begum Hamida.
Rahman, Khan Bahadur Ataur.
Rahman, Mr. Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Roy Chowdhury, Mr. Krishna Chandra.
Sanyal, Mr. Sachindra Narayan.
Shamsuzzoha, Khan Bahadur M.

The motion was negatived.

Maulana MUHAMMAD AKRAM KHAN: Sir, I beg to move that in sub-clause (2) of clause 1 for the words "one month after it receives assent" the figures and words "31st May, 1938" be substituted.

The member then addressed the House in Bengali. The following is the English translation of his speech:—

Sir, I fully agree with Mr. Humayun Kabir as to what he has said regarding fixing time. The time has only been increased by a month and a half as otherwise there may be many disadvantages. From 26th March to 14th April—there may be difficulties time being a short space of two or three weeks. That is why I am putting in this proposal.

Mr. PRESIDENT: The question before the House is that in sub-clause (2) of clause 1, for the words "one month after it receives assent" the figures and words "31st May 1938" be substituted.

The motion was adopted.

Mr. PRESIDENT: In view of acceptance of amendment No. 7, amendment No. 8 falls through.

Mr. HUMAYUN KABIR: Sir, I beg to move that in clause 1, after sub-clause (*2*), the following sub-clause be added at the end, namely:—

"(*3*) All undecided original suits relating to any section contained herein shall, even though instituted before 14th April 1938, be decided according to the provisions of this Act."

Sir, my purpose in moving this amendment is quite simple. We are passing the Bengal Tenancy (Amendment) Bill, 1938, in order to grant certain reliefs to the tenants, and my contention is that if relief is to be granted to tenants, there is no reason why there should be any distinction between the persons who come under its operation a day before it becomes an Act and those who come under its operation a day after that. It will also be noticed that I have kept myself confined exclusively to undecided original suits. I have not touched those suits which have been tried in any Court and some sort of judgment has been given. I do not want that they should be re-opened, and therefore I do not think that this amendment will go in any way against the interests of those who have got any decrees on any of their suits. It refers only to those suits which have not been decided at all, and which if they had been instituted perhaps a day after the Act came into operation, would not be entertained at all. I contend they should also come under this Act. I will give one or two concrete examples to make clear what I mean. For example, under this new Act, it is proposed to take away the landlord's right of pre-emption. It is proposed to abolish the landlord's fee; therefore there is no reason why the landlord should be allowed to exercise his right of pre-emption on, let us say, the 31st May, but shall not be allowed to exercise that right on the 1st of June. Why should a tenant suffer, because the suit was instituted before that date, and only for that reasan? Why should there be any distinction between these two types of tenants? Therefore, Sir, I submit that in the cases of all undecided original suits, they may come under the provisions of this Act. The only objection which may be raised is that whenever we legislate, the Legislature should be very very careful before it passes any Act with retrospective effect. I also admit that retrospective legislation should be undertaken after a great deal of care, but nevertheless, Sir, we have accepted that in the case of granting certain urgent relief to the tenants, this principle may be modified. And I am only suggesting a further extension of the same principle of modification which has already been accepted by the Hon'ble Revenue Minister. I, therefore, move, Sir, that all undecided original suits relating to any section contained herein shall even though instituted before the 14th April, 1938, be decided according to the provisions of this Act.

May I, Sir, make a verbal amendment? Instead of the 14th April, the 31st May may be substituted. I had originally moved that this Act should come into operation on the 14th of April. Now the House has accepted that it should come into operation on the 31st of May. May I, therefore, make this verbal amendment with your permission?

Mr. PRESIDENT: Yes.

Mr. HUMAYUN KABIR: Therefore, I move that all undecided original suits relating to any section contained herein shall, even though instituted before the 31st of May, 1938, be decided according to the provisions of this Act.

Mr. PRESIDENT: Motion moved that in clause 1, after sub-clause (*2*), the following sub-clause be added at the end, namely:—

"(*3*) All undecided original suits relating to any section contained herein shall, even though instituted before the 31st May 1938, be decided according to the provisions of this Act."

I shall also ask Mr. Ranajit Pal Choudhury to move his amendment. Both will be considered together.

Mr. KAMINI KUMAR DUTTA: Sir, may I submit that I have also one amendment of exactly the same nature, namely, No. 11 (*2*) of the List of Amendments?

Mr. PRESIDENT: Yes, more or less of the same nature. You can speak on one of these amendments.

Mr. RANAJIT PAL CHOUDHURY: Sir, I beg to move that in clause 1 of the Bill, after sub-clause (*2*), the following sub-clause be added at the end, namely:—

"(*3*) It shall not affect any pending suits or proceedings."

Sir, my amendment is more or less self-explanatory, and since the Select Committee has accepted that the Bill as recommended should not have retrospective effect, I only want to make it clear by this amendment so that no further confusion may arise in future.

Mr. PRESIDENT: Amendment moved that in clause 1 of the Bill, after sub-clause (*2*), the following sub-clause be added at the end, namely:—

"(*3*) It shall not affect any pending suit or proceedings."

Mr. KAMINI KUMAR DUTTA: Sir, I had myself also an amendment exactly to the same effect, that this Act shall affect all pending suits and legal proceedings and shall have retrospective effect in this respect.

After we have accepted amendment No. 7 of the List of Amendments of Maulana Muhammad Akram Khan that this Act will come into operation from 31st May, 1938, irrespective of the date on which it may receive the assent of His Excellency the Govérnor, it lies with us to lay down that it shall come into operation from a certain date, and the House has already accepted the principle that it shall come into operation from 31st May, 1938. So the principle of giving retrospective effect has been accepted by the House. Now, the question which is before the House is a very narrow one as to what shall happen to the suits which may be pending on 31st May, 1938. The present amendment is this: that whenever an Act comes into operation, if there be any suit pending in the court at that time, so far as that law regulates a matter of procedure only, it begins to operate at once; but so far as the question of substantive law is concerned, the question becomes a very intricate one in regard to a right which has accrued before that date, and in regard to the adjudication of that right on the date of the suit. Now, it appears that so far the House has accepted the principle that from 31st May, it will be a full-fledged law irrespective of the date on which it becomes an Act. With regard to the pendency of suits we find from our experience that this question often leads to very intricate difficulties. The court would find themselves in a very undecided position as to what view they ought to take as to the pending suits, whether they should be guided by the law as it stood at the time of the institution of the suits or by the law as it stands when the judgment is pronounced; so it is better to make it more clear as to how the courts shall come to a decision in this respect. Now by adopting this amendment, that difficulty would be removed and the courts would be able to pronounce their judgments according to the law as it stands at the time when the judgment is pronounced. The courts will accordingly regulate the rights of the parties even though a suit might have been instituted anterior to the passing of the Act. The courts will decide as if it had become law at the time of the institution of the suit. Of course, this amendment will not affect the decrees which had been already passed, but will only affect the suits and proceedings pending on the day the Act comes into force with retrospective effect. This amendment will really be very effective in minimising the difficulties of the courts and helping the court to come to a very clear decision as to the rights of the parties.

Rai SATIS CHANDRA MUKHERJI Bahadur: Mr. President, Sir, I oppose the amendment moved by the hon'ble Mr. Kabir and

support the amendment of Mr. Ranajit Pal Choudhury. Sir, I cannot agree with Mr. Dutta when he says that his amendment is intended to remove certain difficulties. I fail to see what are the difficulties in this Bill which we are going to pass, if it deals more substantively with the pending suits and if the Bill is given retrospective effect. With regard to this, the litigants have certain rights under the existing Act and what justification is there for taking away those rights all on a sudden? No reason has been assigned for doing so. The litigants in exercise of their rights under the old Act, spend a good deal of money as court-fees, etc., for the institution of suits and proceedings and expect judgment in their favour; if this Act being given retrospective effect, affects their pending suits adversely, will that be fair? No justification has been assigned by the mover for taking away those rights. With these remarks, I oppose the motion.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, there are two things in the sphere of legislation which I always oppose. The first is the principle of giving retrospective effect to a particular piece of legislation, and the second is the tendency to oust the jurisdiction of the civil courts such as we find in recent enactments relating to the Bengal Municipal Act and the Bengal Local Self-Government Act. Sir, this amendment seeks to inculcate a very dangerous principle as has been rightly pointed out by Rai Satis Chandra Mukherji Bahadur. If those parties who instituted the suits under the existing Act are subjected to the provisions of the new law which we are going to introduce and if retrospective effect is also given in respect of these suits on which the contesting parties have spent a good deal of money, there will be no end of complications and trouble. Will the Government in that case be prepared to compensate the parties for the loss they will have to sustain as a result of the new provision? With these words, I strongly oppose the amendment.

Mr. BANKIM CHANDRA DATTA: Sir, in view of the principle to which we, on this side of the House, are committed, namely, that none of the provisions of this Act should be given retrospective effect, I cannot support either the amendment of Mr. Humayun Kabir or that of Mr. Kamini Kumar Dutta. So far as the amendment of Mr. Pal Choudhury is concerned, it is really harmless and I support his amendment.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I rise to oppose the motion of Mr. Humayun Kabir and to support the motion of Mr. Pal Choudhury. I do so firstly, because it is against the principle of law to give retrospective effect to any Act. Secondly, my friend Mr. Dutta has stated that the House has accepted the principle of retrospective effect, but I do not see how the House

has done so. The House has only decided that the Bill shall have effect from the 31st May 1938; in that case it would not have retrospective effect, as the House expects that by that time the Bill will have been passed by both the Houses and the assent of the Governor would be obtained. There can be no law in Bengal or anywhere where we find that retrospective effect is given to a new law so as to affect the litigants already filing cases under the existing law. If this principle be agreed upon, they will be put to great difficulty and harassment. So, instead of doing justice to them injustice will be done to them. Not only this, the courts also will not be helped in this way, as Mr. Dutta has suggested. On the other hand, the courts would be much handicapped in framing their judgment. The Judges being well conversant with the existing laws, would be more competent to deal better with the pending cases according to the well-established laws than under the new law. With these remarks I oppose the motion.

Mr. NAZIRUDDIN AHMAD: Sir, I rise to oppose both the amendments. The position is this that the first amendment—No. 9 in the consolidated List of Amendments—says that retrospective effect should be given in regard to all *undecided* original suits. The choice between *decided* and *undecided* suits is not logical and ignores fundamental principles. That will encourage parties to pending cases to run a great race between the parties—one party to have his case decided *after* the 31st May 1938, and the other party to have it decided *before* that date. The application of the retrospective clause will then be made to depend on a mere *accidental* success or failure in this race. The result will be that bribes will be offered on a large scale to the officers of the court to postpone or hasten the decision of pending cases.

Mr. HAMIDUL HUQ CHOWDHURY: Bribery will be confined to Burdwan only.

Mr. NAZIRUDDIN AHMAD: No. Burdwan will easily yield in this respect to the district of Noakhali—my hon'ble friend's home. Noakhali is more justly famous for this. I believe that if we give retrospective effect to the Bill, it will lead to this unseemly race. We know that the Sarda Act was designed to prevent marriages of infants. But the very rumour that the Sarda Act was going to be passed led to marriages of infants on an unprecedented scale thus defeating its own purpose. I submit that retrospective effect with regard to *undecided* cases will place a tremendous premium on fraud. Regarding pre-emption suits by the landlords under the existing law, retrospective operation will introduce serious complications in pending cases. In regard to landlords' transfer-fees retrospective operation will lead to refund of the same on a large scale. These cannot be arranged

privately and suits on a large scale will have to be instituted for refund of the fees. These would be ruinous to agriculturists for whose benefit the Bill is designed.

But we need not have much fear on this score. The tenants have anticipated the passage of the Bill and transfers have been suspended. Innumerable deeds of transfer have been executed and witnessed but their dates have been left blank. As soon as the Bill becomes law these deeds will be dated and presented for registration. This is the report from all parts of the province. Landlords' fees are not being paid and no much harm will be caused if we do not give retrospective operation to the Bill. On the other hand, the provision for retrospective effect will lead to serious complications and petty litigations on a large scale. Such a provision will defeat its own purpose. From practical considerations alone this amendment should be opposed.

But on principle also we should, as far as possible, refuse to give retrospective operations to Acts, unless there are very cogent reasons to the contrary. As Mr. Kamini Kumar Dutta has already pointed out, nobody has a vested right in procedure. So, on matters of mere procedure, retrospectivity comes in as a matter of course.

With regard, however, to substantive law, we should think several times before giving the Bill retrospective operation, as they will lead to complications in pending suits.

With these few words, Sir, I oppose the amendment of Mr. Humayun Kabir.

As regards Mr. Pal Choudhury's amendment, it is absolutely redundant. For, unless you give retrospective effect to the Bill by explicit words or by clear implication it will have no such effect in regard to substantive rights and my hon'ble friends' apprehensions are without any foundation. I, therefore, oppose this amendment too.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Mr. President, Sir, I rise to oppose both the amendments on the general ground that retrospective effect should not be given to any amendment unless it is absolutely necessary on public grounds. As has been pointed out by Mr. Kamini Kumar Dutta, nobody has got any vested right in procedure, and that may be changed but the substantive law should not be changed and given a retrospective effect.

Now, Sir, if the amendment of Mr. Pal Choudhury is accepted, what will become of clause 21 of the Bill? The House cannot support clause 21 of the Bill and, at the same time, accept the amendment of Mr. Pal Choudhury. So, I oppose the amendment on this ground.

As regards the amendment of Mr. Kamini Kumar Dutta, I oppose it on the ground that——

Mr. PRESIDENT: That amendment has not yet been moved. Mr. Dutta spoke on the other two amendments.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am sorry, Sir, I shall speak later on.

Khan Bahadur M. SHAMSUZZOHA: Sir, if the amendment of Mr. Humayun Kabir is accepted, the difficulties that it will give rise to, will be enormous. There are, under the present law, some provisions with regard to *salami* as well as with regard to some substantive rights which have been given to under-raiyats. Now, if suits or applications are filed under the previous law, and if they are going to be decided under the provisions of this Bill, enormous difficulties will be created in the courts of Munsifs and Judges. So, Sir, the Legislature will stultify itself if these amendments are adopted. At first sight it may seem that they will prove beneficial to the tenants, but I submit that instead of benefiting the tenants, they will land them in endless litigation which, far from doing any good to them, will be harmful to their interests.

I would ask the hon'ble member to consider the matter from this standpoint, and hope he will see his way to withdraw the motion and not press it to vote.

Mr. HAMIDUL HUQ CHOWDHURY: Mr. President, Sir, I am in favour of removing all doubts as regards the provisions of law. Both these amendments—of Mr. Humayun Kabir and Mr. Ranajit Pal Choudhury—aim at one and the same thing. It is true that there is a distinction between procedure law and substantive law, but it is also true that one court may interpret one provision as a procedure and another court interpret it as substantive. Therefore, in order to remove all scope of difference and in order to definitely say what you mean, it is necessary that we should adopt either of the two.

Now, the question arises as to which is more beneficial to the country. Mr. Naziruddin's argument has convinced me that the first one should be adopted; for in support of his contention Mr. Naziruddin has cited the effect of introduction of the Sarda Bill in the Central Legislature. The effect, Sir, was that the people, on knowing that some such Act was going to be enacted, immediately rushed to get their sons and daughters married, and Mr. Naziruddin Ahmad agrees that on the same analogy there will be a rush to courts for the purpose of avoiding some of the provisions of law. And thus the beneficial object of the Bill will be defeated. Therefore, Sir, in the fitness of things, Government and the supporters of Government who speak on behalf of the *projas* should come forward in order not to frustrate the good effect of certain clauses of the Bill and accept the amendment of Mr. Kabir, without opposing it.

Therefore, Sir, I am in favour of Mr. Kabir's amendment, and I hope that the House will accept it.

Mr. HUMAYUN KABIR: Sir, have I a right of reply?

Mr. PRESIDENT: No, there is no right of reply in the case of an amendment.

I shall put Mr. Ranajit Pal Choudhury's amendment first because it is more comprehensive.

The question before the House is that in clause 1 of the Bill, after sub-clause (*2*), the following sub-clause be added at the end, namely:—

"(*3*) It shall not affect any pending suits or proceedings."

The motion was negatived.

Mr. PRESIDENT: The question before the House is that in clause 1, after sub-clause (*2*), the following sub-clause be added at the end, namely:—

"(*3*) All undecided original suits relating to any section contained herein shall, even though instituted before 14th April 1938, be decided according to the provisions of this Act."

The House devided:—

AYES.

Chaudhury, Mr. Moazzemali.	Dutta, Mr. Kamini Kumar.
Chowdhury, Mr. Hamidul Huq.	Kabir, Mr. Humayun.

NOES.

Ahmad, Mr. Naziruddin.	Hosain, Khan Bahadur Saiyed Muazzamuddin.
Ahmed, Mr. Mosbahuddin.	Hossain, Mr. Mohamed.
Baksh, Mr. Kadar.	Huq, Mr. Syed Muhammad Ghaziul.
Banerjee, Rai Bahadur Keshab Chandra.	Ibrahim, Khan Bahadur Maulvi Mohammad.
Barua, Dr. Arabinda.	Khan, Khan Bahadur Muhammad Asaf.
Bose, Rai Bahadur Manmatha Nath.	Khan, Maulana Muhammad Akram.
Chakravorti, Mr. Shrish Chandra.	Maitra, Rai Bahadur Brojendra Mohan.
Chowdhury, Khan Sahib Abdul Hamid.	Mukherji, Rai Bahadur Satis Chandra.
Chowdhury, Mr. Khorshed Alam.	Pal Choudhury, Mr. Ranajit.
Chowdhury, Mr. Humayun Reza.	Rahman, Khan Bahadur Ataur.
Chowdhury, Mr. Rozzaqul Haider.	Rahman, Mr. Mukhlesur.
Cohen, Mr. D. J.	Rashid, Khan Bahadur Kazi Abdur.
Das, Mr. Lalit Chandra.	Roy, Rai Bahadur Radhica Bhusan.
Datta, Mr. Bankim Chandra.	Roy Chowdhury, Mr. Krishna Chandra.
D'Rozario, Mrs. K.	Sen, Rai Sahib Jatindra Mohan.
Elahi, Khan Bahadur S. Fasal.	Shamsuzzoha, Khan Bahadur M.
Esmail, Khwaja Muhammad.	Singh Roy, Mr. Saileswar.
Haider, Nawabzada Kamruddin.	Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Hamida Momin, Begum.	

The motion was negatived.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that after clause 1 of the Bill, the following clause be inserted, namely:—

"(*1a*) (*1*). At the end of the proviso to clause (*iii*) of sub-section (*3*) of section 1 of the said Act, after the word 'and' the following words shall be inserted, namely:—

'also in respect of lands situated within the said area which were originally agricultural lands but have subsequently been used for dwelling, manufacturing or any other non-agricultural purposes'."

Sir, may I deal with the first part first?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, may I state my objection to this amendment at this stage? My submission is that this amendment is outside the scope of the Bill, because it deals with the amendment of the Bengal Tenancy Act which deals with agricultural land; but here the hon'ble member wants to extend the scope of the Bill to non-agricultural lands: so it is outside the scope of the Bill.

Mr. KAMINI KUMAR DUTTA: As to the point of order, I may say, Sir, that my amendment does not mean to create any fresh right which does not come within the purview of the Bengal Tenancy Act. My amendment is this: that "in respect of this section 1, sub-section (*3*), clause (*iii*)," this is laid down in the proviso to section 1:—

"provided that a notification under this clause shall be no bar to the operation of this Act in respect of agricultural lands situated within the area specified in such notification."

It appears that this section 1 is the subject of an amendment. Though the original Bill may propose some amendment, it is also within the scope of the House to consider other amendments of that section, unless it is repugnant to the object of the Bill itself. The Hon'ble Minister says that my amendment is outside the scope of the Bill. I submit that if the object of my amendment had been to extend the scope of the Bengal Tenancy Act in respect of the lands to which the Act does not apply and if it had been repugnant to the object of the Bill, my amendment would have been outside the scope——

Mr. PRESIDENT: The question is not about repugnancy, but whether it will be within the competence of this House to widen the

scope of the Bill. You cannot widen the scope of the Bill. If amendments are proposed which are strictly relevant, I do not bar that question. But the House has no power to widen the scope of this amending Bill, by an amendment.

Mr. KAMINI KUMAR DUTTA: Sir, I must say that your ruling must be obeyed. It is absolutely reasonable. An amending Act cannot widen the scope of the Bill itself. The only point is whether it really widens the scope as the amendment asks that this clause (*1*) shall also be operated in respect of agricultural land only regarding which the mode of occupation has been changed. My point is that if the character of the tenancy has not been altered, it will still come under the Bengal Tenancy Act. Really it is not the object of my amendment to extend the scope of the Bill.

Mr. PRESIDENT: So far as the Bill is concerned, it may be said that even a part of agricultural land may be used for dwelling purposes. In your amendment you have mentioned manufacturing or any other non-agricultural purposes. How does it come under the scope of the Act? That is the difficulty.

Mr. KAMINI KUMAR DUTTA: Even if it is used for that purpose, the character of the tenancy might not have been changed; but if the character of the tenancy is changed, no amount of amendment will have any effect. My amendment will remove the doubt on that matter. If there is no change in the character of the tenancy——

Mr. PRESIDENT: You think that it will still come under the Bengal Tenancy Act?

Mr. KAMINI KUMAR DUTTA: Yes. As a matter of fact in the municipal areas in *mufassil* towns there are hundreds of dwelling houses and shops in which the tenancy is governed by the Bengal Tenancy Act.

Mr. PRESIDENT: As provided in this proviso.

Mr. KAMINI KUMAR DUTTA: I think there is an impression abroad that within the municipal limits this Act is not applicable. Government have not excluded any area from the operation of this Act except the area within the Calcutta Corporation. The object of the original tenancy might have been for agricultural purposes.

Mr. PRESIDENT: You contend that even if it ceases to be agricultural land within an area——

Mr. KAMINI KUMAR DATTA: My contention is that even if originally it was acquired for the purpose of agriculture and thereby the occupier had acquired the right of a raiyat under the Bengal Tenancy Act, simply because of the fact that he had used subsequently the land in a different manner the character of the tenancy would not be altered.

Adjournment.

The Council then adjourned till 2 p.m. on Monday, the 28th March, 1938.

Members absent:

The following members were absent from the meeting held on the 26th March, 1938:—

(1) Goswami, Mr. Kanai Lal.

(2) Hossain, Mr. Latafat.

(3) Jan, Khan Bahadur Shaikh Muhammad.

(4) Karim, Khan Bahadur M. Abdul.

(5) Lamb, Mr. T.

(6) Mookerji, Dr. Radha Kumud.

(7) Ormond, Mr. E. C.

(8) Poddar, Mr. H. P.

(9) Sarker, Rai Sahib Indu Bhusan.

(10) Sinha, Rai Bahadur Surendra Narayan.

B. G. Press—1938-39—3734A—900.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Monday, the 28th March, 1938, at 2 p.m., being the twenty-seventh day of the First Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

Questions remaining unanswered.

Mr. LALIT CHANDRA DAS: On a point of information, Sir. Many of my questions of which notice was given long ago and which had become mature for answers, some in January, some in February and some in the middle of March, have not been answered yet;—at least there are some six of them which have not been answered.

Mr. NARESH NATH MOOKERJEE: On a point of privilege, Sir. A limit has been put to the number of questions that each member of this House may put in one session, and the number has been limited to twelve questions. In view of the fact that this House is small and we are likely to have a longer session as we proceed, will you be kind enough to relax the rigidity of this rule in order that we may be enabled to ask a few more questions? My reason for breaking in like this is that many of my questions have been refused because the limit has been exceeded.

Mr. PRESIDENT: It will be for the Rules Committee to amend this particular rule, and I know that the Committee is at present going into the question whether it will be necessary to increase the quota of questions. Meanwhile, I am prepared to relax the rule as far as possible as I have already been doing.

As regards the other point, raised by Mr. Das, he will please inform the Secretary of the Council Department as to the number of questions that are already overdue for answer in the Council, and then I shall see what should be done for the answers.

Meanwhile, there are no questions ready for answer to-day. The House will, therefore, resume discussion of the Bengal Tenancy (Amendment) Bill, 1938.

GOVERNMENT BILL.

The Bengal Tenancy (Amendment) Bill, 1938.

Mr. KAMINI KUMAR DUTTA: I had already moved a portion of my amendment No. 11 of the List of Amendments on Saturday and a point of order was raised in that connection.

Mr. PRESIDENT: So far as I could understand, you were making the point that lands which were originally leased out as agricultural lands, but which have subsequently been used for other purposes, namely, dwelling, manufacturing, etc., etc.—those lands also come under the Bengal Tenancy Act. Is that your point? The hon'ble member well knows that the scope of an Amending Bill is very much limited, and in any Amending Bill all the sections of the original Act are not open to revision. The scope is to be determined from the Title, Preamble and also the Statement of Objects and Reasons. In the Statement of Objects and Reasons attached to this Bill it is declared that the purpose of this Bill is to lessen the burden on cultivators, and Mr. Dutta will find that the amendment he proposes, does not help the cultivators in any way: it is for non-agricultural tenants. In that view of the case, I hold that his amendment is out of order.

The question before the House is that clause 1 stand part of the Bill.

The motion was agreed to.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I may just submit, Sir, that there is a proposal that Government should discuss with the different Party leaders the amendments in connection with the Tenancy (Amendment) Bill that are now before the House, and there is just a chance of our reaching some sort of agreement over some of these amendments. It may expedite the business of the House, if you, Sir, will kindly adjourn the House to-day in view of the prospect of our reaching an agreement over this matter.

Mr. PRESIDENT: Order, order. If there is the least chance of coming to any agreement that may shorten the proceedings of this House, all attempts should be made to do so. I, therefore, accept the suggestion of the Hon'ble Revenue Minister and adjourn the House now till 2 o'clock to-morrow.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Thank you, Sir.

Adjournment.

The Council then adjourned till 2 p.m. on Tuesday, the 29th March, 1938.

Members absent:

The following members were absent from the meeting held on the 28th March, 1938:—

(1) Chakraverti, Mr. Shrish Chandra.
(2) Chowdhury, Mr. Humayun Reza.
(3) Cohen, Mr. D. J.
(4) Datta, Mr. Bankim Chandra.
(5) Datta, Mr. Narendra Chandra.
(6) Ellahi, Khan Bahadur S. Fazal.
(7) Goswami, Mr. Kanai Lal.
(8) Haider, Nawabzada Kamruddin.
(9) Hossain, Mr. Latafat.
(10) Hossain, Mr. Mohamed.
(11) Jan, Khan Bahadur Shaikh Muhammad.
(12) Kabir, Mr. Humayun.
(13) Karim, Khan Bahadur M. Abdul.
(14) Lamb, Mr. T.
(15) McFarlane, Mr. J.
(16) Molla, Khan Sahib Subidali.
(17) Mookerji, Dr. Radha Kumud.
(18) Mukherji, Rai Bahadur Satis Chandra.
(19) Ormond, Mr. E. C.
(20) Poddar, Mr. H. P.
(21) Ray, Mr. Nagendra Narayan.
(22) Ray Chowdhury, Maharaja Sir Manmatha Nath, of
(23) Roy, Rai Bahadur Radhica Bhusan.
(24) Sanyal, Mr. Sachindra Narayan.
(25) Stokes, Mr. H. G.
(26) Wilmer, Mr. D. H.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Tuesday, the 29th March, 1938, at 2 p.m., being the twenty-eighth day of the First Session, pursuant to section 62(2) (*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble MR. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Silting up of rivers Chandana and Kumar.

291. Khan Bahadur ATAUR RAHMAN (on behalf of Mr. Moazzemali Chowdhury): (*a*) Is the Hon'ble Minister in charge of the Communications and Works Department aware that the rivers Chandana and Kumar in the district of Faridpur have almost silted up?

(*b*) Is the Hon'ble Minister aware that owing to the silting up of the said two rivers navigation in most parts of them has become impossible during the dry season and trade, public health and agriculture in the locality have been affected thereby?

(*c*) If the answers to questions (*a*) and (*b*) or either of the two be in the affirmative, will the Hon'ble Minister be pleased to state for how many years the conditions, referred to, have been prevailing?

(*d*) Is the Hon'ble Minister aware that for the last twelve years the attention of the Government has been drawn to the above-mentioned state of things by means of questions asked in the previous Legislative Council?

(*e*) Is the Hon'ble Minister considering the desirability of resuscitating those two rivers?

(*f*) If the answer to question (*e*) be in the affirmative, will the Hon'ble Minister be pleased to state when do the Government intend to take steps to resuscitate those rivers?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of

Cossimbazar): (*a*) Yes. The Chandana and Kumar rivers have deteriorated.

(*b*) Yes, navigation has been restricted.

(*c*) No definite information is available.

(*d*) and (*e*) Yes.

(*f*) Investigations and surveys are being carried on. It is not possible to state now whether or when the scheme will be taken up.

Waterways in Faridpur District.

292. Khan Bahadur ATAUR RAHMAN (on behalf of Mr. Humayun Kabir): Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state whether Faridpur is a river-district depending on waterways for its main channels of communications and also whether it is a fact that most of these waterways are gradually silting up?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: It is a river-district. Some of the waterways such as the Kumar, the Chandana, etc., are silting up due to natural causes.

Direct Route between Faridpur and Madaripur.

293. Khan Bahadur ATAUR RAHMAN (on behalf of Mr. Humayun Kabir): (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state whether it is a fact that owing to the silting up of the waterways in Faridpur district there is no direct route between Faridpur and Madaripur?

(*b*) Will the Hon'ble Minister be further pleased to state the distance from Faridpur to Madaripur and the time a letter takes to reach Madaripur from Faridpur and *vice versa*?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: (*a*) A direct route between Faridpur and Madaripur is available during the rains only. The position will improve after the completion of the Faridpur-Bhanga *khal*.

(*b*) Fifty-eight miles approximately along the direct route. It takes three days' time for a letter to reach Faridpur from Madaripur and *vice versa* as the mail is not carried by the direct route but follows the longer route *via* Goalundo and Tarpasha.

294. Khan Bahadur ATAUR RAHMAN (on behalf of Mr. Humayun Kabir): (*a*) Is the Hon'ble Minister in charge

of the Communications and Works Department aware of the inconvenience to passengers and the loss to trade and commerce caused to the people of Faridpur and Madaripur owing to unsatisfactory communications due to silting up of waterways in those places?

(*b*) Will the Hon'ble Minister be pleased to state whether there is direct communication between Faridpur Sadar and any of the subdivisional headquarters other than Rajbari?

(*c*) Is it a fact that the Subdivisional Officer of Gopalganj goes to Faridpur Sadar *via* Khulna and Dum-Dum?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: (*a*) Yes, during the dry season.

(*b*) During the rains there is direct communication from Faridpur to both Madaripur and Gopalganj, but during the dry season these direct routes are inoperative owing to the silting in some of the channels.

(*c*) Yes.

GOVERNMENT BILL.

The Bengal Tenancy (Amendment) Bill, 1938.

Mr. PRESIDENT: The House will now resume discussion on the Bengal Tenancy (Amendment) Bill, 1938.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I make a suggestion at this stage, viz., that we leave out for the time being clauses 3, 4 and 5?

Mr. PRESIDENT: I am now taking up clause 2.

Clause 2.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that clause 2 of the Bill be omitted.

Mr. NAZIRUDDIN AHMAD: On a point of order, Sir. Any member is entitled to oppose the retention of a clause as a matter of form and the omission of a clause need not be moved as an amendment; it is opposition to the main motion, so it does not appear in form by way of amendment.

Mr. PRESIDENT: It is different in case of amendment to clauses of Bills. If you do not accept the omission of a clause, that does not necessarily mean that you accept the clause without any alteration or

addition. So, as regards the clauses of a Bill, motion for omission is allowed as an amendment.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, it seems that this clause had been introduced with a view to giving the under-raiyat the right of acquiring the occupancy right two years earlier than they would otherwise have acquired, but for the sake of advantage to under-raiyats, it is not at all prudent to amend the definition as it may give rise to complications unforeseen by us at the present moment and with this view, I propose the deletion of the clause.

Mr. PRESIDENT: Motion moved that clause 2 of the Bill be omitted.

Mr. NUR AHAMED: Sir, I rise to oppose the amendment moved by Rai Surendra Narayan Sinha Bahadur. I do not see the reason why the Rai Bahadur wants the deletion of this very necessary clause in the Bill. It appears that by the amending Act of 1928, the definition of "holding" was amended and it was extended to the holding of an under-raiyat or the undivided share of a holding. In many instances, it was held that the holding of an under-raiyat was not to be a holding, as also the undivided share of a holding. Now, after that amendment there has arisen the necessity of clearing one point—whether the definition, as amended, will apply to a holding of an under-raiyat or to a share of a holding of an under-raiyat or raiyat. And as some difficulty has been created by that point not being properly clarified, the proposed clause has been put in the Bill to make it clear. Practically clause 2 covers that. So, I oppose the amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose the amendment. The High Court held that the definition of "holding" which now includes part of a holding does not apply to holdings created before 1928. Just to give retrospective effect to the definition of "holding" as inserted in 1928, this amendment has been inserted in this Bill. It is only fair that the real and original intention of the Legislature should be given effect to.

Mr. PRESIDENT: The question before the House is that clause 2 of the Bill be omitted.

The motion was lost.

Rai MANMATHA NATH BOSE Bahadur: I beg to move that in clause 2, line 5, the words "before or" be omitted.

Sir, my object in proposing this amendment is that we should follow the wholesome rule that retrospective effect should not be given to any portion of the Bill. The hon'ble members of this House are aware

that this principle was accepted by the Select Committee and I am inclined to believe that probably by an oversight this clause was not amended. It is not unlikely that the proposed amendment will create some difficulty. I, therefore, think that the proposed addition is unnecessary, and even if it be thought necessary, retrospective effect is undesirable. With these words, I beg to move my amendment.

Mr. PRESIDENT: Motion moved that in clause 2, line 5, the words "before or" be omitted.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I rise to oppose this amendment, because it really seeks to do away with clause (*2*) of the Bill. If the words "before or" are removed then the clause would read thus: "Whether the raiyat or under-raiyat has held the land after the commencement of the Bengal Tenancy (Amendment) Act, 1928," which means nothing, and there is no necessity of a clause like this. It becomes useless. I do not think this amendment can be allowed at all. I beg to oppose it.

Mr. NAZIRUDDDIN AHMAD: Sir, I also oppose the amendment. Generally, as a matter of principle, retrospective effect should not be given, but this otherwise wholesome rule should not, I submit, apply to this case, because the amendment that was made in 1928 was to give effect to a very wholesome principle. A fractional share of a plot of land either alone or with other plots could not constitute a "holding" before 1928. This was what was held by the High Court. This led to various difficulties and tenants owning such properties were deprived of numerous rights attached to a "holding." That difficulty was sought to be removed in 1928. The High Court held that the provision did not apply to such properties acquired before 1928. What was intended in 1928 was to give the benefit to all such existing properties—whether created before or after the amendment of 1928. The present clause removes the doubt and gives the benefit to all such tenants. There are many persons who hold fractions of plots of land singly or with other plots which should be regarded as "holdings." If we do not allow them that right and if we do not give a merely nominal retrospective effect, they would be deprived of the rights and privileges conferred by the Bengal Tenancy Act on "holdings". In these circumstances, the principle of retrospectivity should be accepted with advantage. I submit that the benefit of the Act should be given to all holders of such fractional properties by bringing them within the definition of "holding."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The point has been very clearly explained by the previous speaker. I do not want to repeat it and I formally oppose this amendment.

Mr. NUR AHAMED: Sir, I oppose this amendment. The words "before or" are the most important words in the section. If they are omitted, the remaining words will have no meaning. The whole purpose of this clause is to give retrospective effect to the holding. So, I hold that these words should be retained.

Mr. PRESIDENT: The question before the House is that in clause 2, line 5, the words "before or" be omitted.

The motion was lost.

The question before the House is that clause 2 stand part of the Bill.

The motion was agreed to.

Clause 6.

Mr. PRESIDENT: Sir Bijoy, you suggested that clause 6 might be taken up now.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir.

Mr. PRESIDENT: The question before the House is that clause 6 stand part of the Bill.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, should this also not be postponed in view of the fact that the right of pre-emption goes hand in hand with *selami*?

Mr. PRESIDENT: If you like, we may leave out this clause also at present.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have no great objection.

Clause 7.

Mr. PRESIDENT: The question before the House is that clause 7 stand part of the Bill.

Mr. LALIT CHANDRA DAS: Sir, I beg to move that clause 7 of the Bill be omitted.

The result of my moving this amendment will be the retention of section 26G of the Bengal Tenancy Act as before. According to it an occupancy raiyat enters into a complete usufructuary mortgage in respect of a holding or a portion or share thereof for any period which

does not and cannot in any possible event, by any agreement, expressed or implied, exceed fifteen years. This will have no retrospective effect. The effect of omitting clause 7 of the Bill will be that the holders of usufructuary mortgage before 1928 will have their rights intact. This Act will have no retrospective effect upon a usufructuary mortgage before 1928. One reason which I adduce in commending my amendment is that giving of retrospective effect to usufructuary mortgages before 1928 will violate the sanctity of contract and therefore, it will be an arbitrary Act on our part. I hold, further, that it will be *ultra vires* of the Legislature, because under the Transfer of Property Act everybody has the right to take the usufructuary mortgage by advancing money to the debtors and stand upon the right that is conferred upon him by the Transfer of Property Act. There are many tillers of the soil who advanced all that they had and all that they could call their own to the agriculturists who were in need of money. It will be seen that these usufructuary mortgagees are mostly tillers of the soil and there is no reason why these tillers of the soil, having given all their lives' savings in order to secure some land from the cultivators, should be deprived of their just rights as a result of retrospective effect being given to the provisions under section 26G of the Act. I do not know whether other members of the House have got representations from different parts of the province but for myself I can tell the hon'ble members that I have received representations not only from the cultivators and tillers of the soil of my own district but also from those of Midnapore and the 24-Parganas to the effect that they will be very hard hit if retrospective effect is given to this clause. With these words, Sir, I beg to move my motion.

Mr. PRESIDENT: Motion moved that clause 7 of the Bill be omitted.

Rai MANMATHA NATH BOSE Bahadur: Sir, may I be permitted to submit that my amendment No. 114 of the List of Amendments being practically the same as No. 111, I need not move my amendment but speak on No. 111? Mr. Das has moved for the omission of clause 7 and my amendment says that in clause 7 in section 26G all proposed amendments creating retrospective operation be omitted. Practically, what he has said in the course of his argument applies to my amendment also.

Mr. PRESIDENT: Yes, you need not move your amendment but can speak on this motion.

Rai MANMATHA NATH BOSE Bahadur: Sir, my proposal is not to give retrospective effect to any provision of the section 26G. The law is clear on the point. The late Sir Ashutosh Mukherjee

observed in the leading case of Manjuri Bibi *vs.* Akhel Muhammad: "It is well settled that retrospective laws are *prima facie* of questionable policy and contrary to the general principle that legislation by which the conduct of mankind is to be regulated ought, when introduced for a first time, to deal with future acts and ought not to change the character of past transactions carried on upon the faith of the then existing law. The maxim is familiar to every student of jurisprudence —a new law ought to be prospective, not retrospective in its operation." Bearing this in mind it is difficult to understand why provision is made for retrospective operation of this section. To prevent the evasion of paying landlord's fees it was thought necessary in 1928 to put certain restrictions on certain forms of usufructuary mortgage of occupancy holdings. But the usufructuary mortgages by which the mortgagees were to keep possession of the mortgaged lands in lieu of interest only and the mortgagors were to repay the principal amount in cash and which were entered into prior to the passing of the Amending Act of 1928, were left untouched. But in the present Bill it has been laid down in the new sub-section 1(*a*) that every usufructuary mortgage subsisting on or after the 1st day of August 1937 which was so entered into before the commencement of the Bengal Tenancy (Amendment) Act, 1928, shall be deemed to have taken effect as a complete usufructuary mortgage for the period mentioned in the instrument or for twenty-five years, whichever is less. I submit that relying upon the safeguards, as contained in the provisions of several Acts, several thousands of men who are mostly raiyats have invested their savings in usufructuary mortgages. As the creditors generally in these cases are raiyats, the effect of the Bill will be to ruin them. So if the proposed clause be passed, the cultivating raiyats will be the worst sufferers while the professional money-lenders investing money in simple mortgages and handnotes will not be touched. I submit that the transactions that were entered into under the law prior to 1928 should be respected and preserved and the sense of sanctity of contract should not be allowed to disappear. If the raiyat be given the unrestricted right of transfer, it is difficult to understand why he should not be given the right to effect an usufructuary mortgage. After all, a complete usufructuary mortgage or any form of usufructuary mortgage is not an out-and-out alienation and there is every chance of the holding reverting to the raiyat after some time. If the mortgagee does anything wrong there is the Debt Settlement Board. The Bengal Tenancy Act governs the relation between the landlords and tenants. Why then should a transaction between a debtor and a creditor find place in it? There are also legal difficulties in the way. If there be included in one instrument of usufructuary mortgage raiyatwari, and other kinds of lands, such as tenure, *nisfi* and *bahali*, what will be the effect and who will apportion the amount for each kind of land and when and on what basis and by what method? These difficulties are not easy of solution.

There are other difficulties as well but I do not wish to multiply instances. In my humble opinion, a limited transfer is better than an absolute transfer and if limited transfers like these are prohibited, sales will become more and more frequent and the actual tillers of the soil would lose their rights for ever by sales. The amendment proposed will hit very severely districts like Midnapore, Howrah, 24-Parganas, Khulna, Dacca, Tippera, etc., and I find no justification for passing an Act which will embarrass a very large number of cultivators. I am, therefore, of opinion that retrospective provision should not be given effect to and necessary amendment be made.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, I have a similar amendment, namely, amendment No. 113 of the List of Amendments; can I speak on this amendment? I do not think it necessary for me to move my amendment.

Mr. PRESIDENT: I do not think it is necessary for you to move your amendment. You can speak on this.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: The matter has been very ably dealt with by Rai Manmatha Nath Bose Bahadur, who preceded me. I do not, therefore, propose to say anything on the subject. With your permission I would simply question the legality of this clause, taking my stand on item No. 10, list III of Schedule 7 (page 294 of the Government of India Act, 1935). You will find, Sir, that in item No. 10, any contract relating to agricultural land has been excluded and it prohibits the Provincial Legislature, to take up any matter which comes under that category. If you will kindly go through item No. 21 of list II, you will find that nowhere in item 21 contracts relating to agricultural land has been included as matters which come within the jurisdiction of a Provincial Legislature. I, therefore, submit that the Bill clause under review is *ultra vires*.

Mr. PRESIDENT: I could not quite follow the Maharaja's point. Is it not included in item 21, list II, which is an exclusively provincial list?

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I think that it does not include any contract relating to agricultural land. It reads thus: "land, that is to say, rights in or over land, land tenures, including the relation of landlord and tenant, and the collection of rents; transfer, alienation and devolution of agricultural land; land improvement and agricultural loans; colonization; Courts of Wards; encumbered and attached estates; treasure trove." It does not empower a Provincial Legislature to deal with

any contract relating to agricultural land, and so it could only do so if it is specially empowered by the Governor-General, by a public notification, which has not been done in this case.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: What about alienation and the devolution of agricultural land? Mortgage is certainly alienation and a form of transfer, so "alienation" ought to meet the Maharaja's point.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I doubt whether it covers my point. Usufructuary mortgages are limited alienations. The prohibition is specific in concurrent List III.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Certainly mortgage is alienation: it is a form of transfer.

Mr. PRESIDENT: I hold that it comes under item No. 21, alienation of land. So it is not illegal or outside the jurisdiction.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I rise to oppose the amendment which has been moved by Mr. Lalit Chandra Das and supported by Rai Manmatha Nath Bose Bahadur. They have argued that it amounts really to giving a retrospective effect to certain provisions of the Act, but it is not really so. If we go to the real significance of the amendment, it will be found that it only allows the agricultural tenants the benefits of the Bengal Money-lenders' Act. It is only fair that a usufructuary mortgage ought to stand cancelled and be redeemed after a certain number of years according to the principles laid down in the Bengal Money-lenders' Act. According to that Act, when the interest becomes more than the principal, the money-lender cannot get a decree in excess of double the principal. If you apply the same principle to the mortgaged lands, it can be proved definitely that these usufructuary mortgagees get from the usufruct of the lands much more than double the principal within the number of years specified in the amendment. We find from the Bengal Banking Enquiry Committee's Report that the ordinary rate of interest of mortgages of agricultural land varies from 18¾ to 37½ per cent. We find from the same report (page 198) that the common rate of interest is 37½ per cent. Can anybody think that the mortgagee of a usufructuary mortgage did not make sure that he was not getting at least the usual rate of interest? So, at the rate of 37½ per cent. the principal will double itself in less than six years' time. But even taking that he charges the very minimum rate of interest, viz., 18¾ per cent., in less than eleven years

the interest will double the principal. So after eleven years, the mortgagee should not continue to enjoy the mortgaged land according to the principle of the Bengal Money-lenders' Act. In this Act we have made a provision for twenty-five years. Of course, there are other amendments as to whether twenty-five years is not too long a period—this will be considered later on, but so far as the retention of this amendment is concerned, there is sufficient material before us from which it will be found that it will be denying the ordinary agricultural tenant the benefit which the Bengal Money-lenders' Act has given to an ordinary debtor. Agriculture is the backbone of our country, and if we do not allow the agriculturists the consideration which the ordinary debtor gets, only because this sort of mortgage comes under the cover of a peculiar form, and for that reason the agriculturist is to suffer, then we will be doing a great injustice to the agriculturists. Sir, according to the rates of interest given in the Bengal Banking Enquiry Committee's Report, it is found that a mortgagee will get at the ordinary rate of interest about eight times the principal as interest alone, from the usufruct of the land in twenty-five years. And even at the lowest rate he will get four times the principal for which the land was mortgaged. Is it not unjust and unfair that he should be allowed to go on enjoying the land for ever or for a very long period, although the principal for which the land was mortgaged has been paid three, four or even eight times out of the usufruct of the land? We would, therefore, be doing a bare justice to the agriculturists if we approve of this clause. Of course, we have further amendments to clause 7 for our consideration, and I shall speak on them later on.

With these words, Sir, I oppose the amendment proposed by Mr. Lalit Chandra Das and supported by Rai Manmatha Nath Bose Bahadur.

Mr. PRESIDENT: May I also draw Maharaja Bahadur's attention to the definition in clause 3 where the usufructuary mortgage has been defined as the transfer of the tenant's right of possession of any land, and in section 21 both transfer and alienation have been specifically provided? That is quite sufficient.

Khan Bahadur SHAIKH MUHAMMAD JAN: Sir, I am not at all ashamed to confess that I am neither a zemindar nor a peasant, nor a middleman. Therefore, I am quite unable to understand the complications which this amendment is going to give rise to. My friends want to amend this Bill, but that will not be fair. I know that this Bill has been passed by the popular Assembly representing hundreds and thousands of voters, and again this Bill has been passed by the Select Committee of this House; and it will be our duty to support it as it stands——

Rai KESHAB CHANDRA BANERJEE Bahadur: You want it to be regarded as sacrosanct?

Khan Bahadur SHAIKH MUHAMMAD JAN: It appears, however, Sir, that while a section of this House is dissatisfied with the Bill as being revolutionary in character—I mean, the zemindars, another section of the House honestly feels about the inadequacy of the measures adopted in this Bill, and in its opinion the remedy suggested in the Bill does not go far enough to ameliorate the pitiable condition of the poor peasants. Therefore, in my humble opinion the present Bill is a *via media* between the two extreme views, and as such it is the duty of every one of us to support it. In the opinion of some, the Bill does not go even half way to satisfy them; but they have been satisfied that half a loaf is better than no loaf, and that in the interests of the poor cultivators, they should not go out of their way to reject this Bill. As for those who say that some encroachment has been made upon the rights of the zemindars, they should thank God that the worst did not happen——

Mr. PRESIDENT: Order, order. That is not strictly relevant to the particular point at issue.

Khan Bahadur SHAIKH MUHAMMAD JAN: My argument is that as the Bill has been passed by the other House representing thousands of voters, it is the duty of this House also to accept this Bill——

Mr. PRESIDENT: Order, order. That will be a very good argument at the third reading of the Bill, not at this stage. Have you any special arguments relevant to the amendment we are now discussing?

Khan Bahadur SHAIKH MUHAMMAD JAN: My argument is that as the Bill has been fully and thoroughly discussed and passed by the other House representing thousands of voters, I suggest without any disrespect to anybody that this House should accept it without any amendment——

Mr. PRESIDENT: Order order. Your speech is not at all relevant to this point.

The Government Whip gave me a list of gentlemen who wanted to speak, but I find the members themselves refuse to speak.

Khan Bahadur Maulvi MUHAMMAD IBRAHIM addressed the House in Bengali. The following is the English translation of his speech:—

Sir, I intend to say a few words on the motion brought by Mr. Lalit Chandra Das and I do so because I am an out-and-out villager and am, therefore, better acquainted with rural conditions than the pleaders, muktears and doctors assembled here. Hence much importance will have to be attached to what I say. I myself have done co-operative work in rural areas. Although the rate of interest in villages is not less than 12 to 15 per cent. per annum, the *mahajans* who accept usufructuary mortgage do so after they have calculated interest at the rate of 6 or 6¼ per cent. They also take note of the period of time that will be taken for the principal instead of the interests to be paid off. It appears from the rate of interest prevalent in the current year that it cannot take them more than six years to pay off the debt. As lawyers, zemindars and talukdars, we can speak volumes but most of us are ignorant of rural conditions. The fifteen-year limit, as laid down in the Bill, has been too much and its amendment in favour of twenty-five years is unjust. The gentlemen present here will not fully realise how harshly it will operate on those who possess *khaikhalasi* holdings. They come scarcely in touch with the poor people and do not possibly know what sort of soil Bengal has. In a country where interest is sometimes realised at the rate of even 301 per cent., the usufructuary mortgagors, in my opinion, will know no relief even if a ten-year limit be fixed in place of a fifteen-year limit. In the circumstances, the original proposal for a fifteen-year limit seems only reasonable. I, therefore, decline to support Mr. Das's motion.

Mr. NAZIRUDDIN AHMAD: Mr. President, Sir, one of the objections raised to this clause of the Bill is that this is not a proper subject to be introduced in the Bengal Tenancy Act.

Mr. PRESIDENT: That has been ruled out.

Mr. NAZIRUDDIN AHMAD: I find, however, if any support is necessary, that section 26G has actually provided for usufructuary mortgages. It should have a place in the Act for the simple reason that the question of transferability of holdings, in its various aspects, was provided for by the sections 26A to 26J of the Act. Usufructuary mortgage is a "transfer" of property and properly falls within this group of sections. With regard to the argument often repeated, relating to retrospectivity, I submit that the Legislature has often interfered in order to improve and reconstruct peoples' imprudent contracts. It is not really giving retrospective operation in the ordinary sense of the word, but rather it is an attempt to save the helpless tenants from their foolish contracts. The Bengal Tenancy Act has on many occasions interfered with the so-called sanctity of contracts. Existing

chapter XV of the Act relating to "Contract and Customs" is an interference with the alleged sanctity of contracts. This is done on the well-known ground that whenever tenants enter into any contract with their landlords, they are under the hypnosis of the dominant party, and in order to give relief to them from their helpless position the Legislature has to interfere. The rate of interest has gone down throughout the world and we are merely giving the tenants the benefit thereof. I do not wish to go into the figures and economic factors which entered into the calculation by which a period of fifteen years was determined. Khan Bahadur Saiyed Muazzamuddin Hosain with his usual ability in such matters, has dealt with it and he will deal with the other aspects of the question at the proper time. I submit that on both these grounds, it will be proper for us to legislate on a matter like this, and the usual objection relating to retrospectivity does not really arise in this case.

Mr. NUR AHAMED: Mr. President, Sir, I rise to oppose the amendment moved by Mr. Lalit Chandra Das. I am really surprised to find that a Congressman like Mr. Lalit Chandra Das is opposing a clause of the Bill which seeks to give relief to the poor peasants. It is said that the Congress policy is for the uplift of the peasantry of India, but arguments have been advanced in this House to show that this will prejudicially affect the peasantry of Bengal, because if retrospective effect is given with regard to usufructuary mortgage, it will affect the peasants in the matter of raising loans. The result will be that the peasants will not be able to raise the necessary money for their requirements, and there will be a complete sale of peasant's holdings. But what we find from experience is that lands have been lent out to money-lenders for indefinite periods, say thirty, forty or fifty years, and the money-lenders have been in the enjoyment of the poor cultivators' land for so many years. Moreover, we find that the rate of interest in Bengal is very high, and money is lent out at the rate of 18 to 37 per cent. This is really a great hardship to the tenants, and these amendments have been inserted to remove that hardship and give minimum relief to the poor peasants. Retrospective effect has only been given to that class of mortgages which were in existence on the 1st day of August 1937, and it has not been given to mortgages after that period. So, I do not find any reason why the peasants should not be benefited by the proposed amendment if retrospective effect is given thereby.

Khan Bahadur M. SHAMSUZZOHA: Sir, I beg to oppose the motion moved by Mr. Lalit Chandra Das. My grounds are these: during the regime when doctrines of *laissez faire* and freedom of contract held uncontrolled sway, so far as my memory helps me, Sir, since the

fifties of the last century, the rate of interest that was placed in the Statute Book until the Bengal Money-lenders' Act of 1934 was passed, had been so very high and extortionate that the Legislature at last intervened in the interests of the general debtors and brought it down to a certain extent. As regards the agricultural people, this was found more necessary in view of the fact that their condition, as compared with other debtors, was more helpless and hopeless. And exactly with the same view attempts were made in 1928 to protect the tenants enjoying occupancy right from running into ruinous transactions with money-lenders and a clog was put on unconscionable bargains and their right to fetter their tenancy right in a way as not to give them power ultimately to get themselves rid of the incubus of this sort of usufructuary mortgages, was put a stop to.

Sir, opportunity has now come. It is only in the fitness of things that amendments have now been put forward in this Bill, and these amendments are quite in consonance with the spirit and the policy that were enunciated in 1928. One of the contentions put forward is that some cultivating raiyats who are *mahajans* have invested their money in the usufructuary mortgages on the faith and understanding that due regard would be paid to their contract, and that there should be sanctity of contract. But, if they (these mortgagees) have enjoyed the land for, say, a comparatively longer period than is usual under other forms of contract or other forms of mortgage, then, it is only equitable that these persons after they have enjoyed the possession of the land for a comparatively greater length of time, should give up that right; and when they are not willing to give up that right, it is only expedient in the interests of the agricultural debtors, that the Legislature should intervene. Now, Sir, another contention put forward by my friend alluded to certain representations made from some districts on the ground that there were certain persons who entered into these contracts when there was no transferability of occupancy holdings. What he means to say is that, in fact those usufructuary mortgages were really transfers in toto. That is, they meant extinguishment of the whole *raiyatwari* interest and although the transferees are usufructuary mortgagees, they are practically raiyats. But with regard to that contention, it may be easily said that if they evaded the law when the law was otherwise, i.e., when the law did not allow transfer of holdings, they tried to squeeze out something illegal and now they should not be allowed to perpetuate that wrong, and the Legislature should intervene not to allow them to commit that fraud on the law and reap its fruit with impunity. So, Sir, Legislature being the ultimate protector and custodian of the rights and interests of all parties and all classes, it is undoubtedly within its competence to come forward and terminate such illegal things and that solely with a view to the adjustment of rights on the ground of equity and good conscience.

Mr. NARESH NATH MOOKERJEE: Sir, I merely wish to clear up the misconception which, I am afraid, has cropped up in the mind of my friend Khan Bahadur Muhammad Ibrahim. My hon'ble friend has said that this clause, the amendment of this clause, will increase the misery of the raiyats, because the time-limit has been extended by another ten years, i.e., from fifteen years to twenty-five years. Well, Sir, I submit that it is with that end in view that the amendment was put forward from this side of the House, and if we are able to get the support of my hon'ble friend, I think we shall be able to omit this clause and thereby do away with the hardships of the raiyats, because the fifteen years' time-limit will then be restored.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: On a point of order, Sir. I cannot follow what our friend Mr. Mookerjee has said just now. Does he mean that his amendment amounts to——

Mr. PRESIDENT: Order, order. You need not suppose anything and oppose it.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, we have not understood his point.

Mr. PRESIDENT: Mr. Kader Baksh!

Mr. KADER BAKSH: Mr. President, Sir, a very learned discussion has already taken place for and against this amendment. My appeal to the Congress people would be that this amendment should be opposed on other grounds than on the ground of hardship to the tenants. The Congress people, the hon'ble members of the Congress group, always press Government that the people of our country or the province is not making any progress in industries. Now, the effect of this would be that people would go on lending money on the security of land. By this no doubt they will gain something but it would make the people idle and convert them into so many Shylocks. Moreover, the people will not take the risk of investing this money in industries. So, Sir, if the period be shortened, if it is made five years or three years, people will not lay out their money for usurious purposes but will be compelled to bring them and invest in industries and as a result of that some material prosperity will be achieved by our province. On this ground, Sir, my appeal to them would be that the period should be given retrospective effect and they should limit the period to less than fifteen years, on this ground that it will bring the shy and dormant capital of the people and they will have to, just

like Madras and Bombay, invest them in industries and in other concerns, so that it will bring wealth to this province as a whole. Therefore, Sir, I oppose this motion, because it will not only cause great hardship to the people and deprive them of the enjoyment of the land for a very very long time but help the usurious money-lenders to lead happy but idle lives; but on the other hand, if the period be shorter, it will result in greater and greater industrial progress of our province.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, this clause has been introduced in this Bill with a view to giving retrospective effect to the provisions of the Act of 1928 and this is certainly one of the clauses that are meant to give relief to the poor agriculturists. Due to the great economic depression through which the province passed during the last few years, many of these agriculturists had to place their lands under usufructuary mortgage and in fifteen years time, it can be reasonably expected that the mortgagee will not only get back his capital, but quite a large amount as interest. What is proposed by the Bill is that after fifteen years the poor agriculturist should get back his land. There are quite a lot of instances in this province where the agriculturists, ignorant and helpless as they are, are often completely deprived of their little possession in this world by the money-lenders. These instances are, I regret to observe, very common in the rural area and clause 7 of the Bill is meant to give protection to such people. My friend Rai Manmatha Nath Bose Bahadur observed that it is against the general legal principles to give retrospective effect to any law. He is perfectly right. Nobody questions or challenges that general principle, but there are cases where retrospective effect should be given in the wider interest of the community, and Government do feel, Sir, that it is one of those instances where retrospective effect is perfectly justified.

With these few words, Sir, I oppose the amendment.

Mr. PRESIDENT: The question before the House is that clause 7 of the Bill be omitted.

The motion was lost.

Rai SURENDRA NARAYAN SINHA Bahadur: Mr. President, Sir,——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I rise on a point of order, Sir. This amendment also aims at taking away retrospective effect——

Mr. PRESIDENT: Let him move it first.

Rai SURENDRA NARAYAN SINHA Bahadur: I beg to move, Sir, that for clause 7 the following clause be substituted, namely:—

"7. To section 26G of the said Act the following proviso be added, namely:—

'Provided that nothing in this section shall apply to any transaction of the nature described in this section which will have been completed within one year of the commencement of the Bengal Tenancy (Amendment) Act, 1938'."

Sir, I do not want to take much time of this House. I am not in favour of the deletion of the whole clause 7, but my intention in moving this amendment is that when a transaction has been completed within one year of the passing of the Act, the tenants will not get the benefit of this clause because we should respect the contract, and the transaction which has not been made within a year, should not be altered. That is my object, Sir, in moving this amendment.

Mr. PRESIDENT: Motion moved that for clause 7 the following clause be substituted, namely:—

"7. To section 26G of the said Act the following proviso be added, namely:—

'Provided that nothing in this section shall apply to any transaction of the nature described in this section which will have been completed within one year of the commencement of the Bengal Tenancy (Amendment) Act, 1938'."

Sir Bijoy, what is your point of order?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rose on a point of order to object to the moving of this amendment. The House has just pronounced its views on the amendment moved by Mr. Lalit Chandra Das.

Mr. PRESIDENT: It does not mean that those members, who were opposed to the amendment of Mr. Das, will not accept any other alteration.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am sorry, Sir. But I submit that the argument which we adduced in the previous case, will also apply in this case.

Mr. NAZIRUDDIN AHMAD: Mr. President, Sir, although it is not to be ruled out on a point of order, this amendment is in

reality nothing but the previous amendment in disguise. It is clothed in diplomatic language to conceal its real character. It practically nullifies what has been given by the section. So, as we have accepted the principle that the deletion of clause 7 be rejected, I submit that on the same ground this amendment also should be rejected.

Mr. PRESIDENT: The question before the House is that for clause 7 the following clause be substituted, namely:—

"7. To section 26G of the said Act the following proviso shall be added, namely:—

'Provided that nothing in this section shall apply to any transaction of the nature described in this section which will have been completed within one year of the commencement of the Bengal Tenancy (Amendment) Act, 1938'."

The motion was negatived.

Mr. NARESH NATH MOOKERJEE: Mr. President, Sir, I beg to move that sub-clause (*1*) of clause 7 of the Bill be omitted.

This new section in clause 7 contemplates putting sub-section (*4*) of section 26G of the Act immediately after sub-section (*1*). This new sub-section which is really the old sub-section (*4*) debars a raiyat from creating an ordinary usufructuary mortgage without a time-limit, which means a mortgagor may pay off his interest every year by the usufruct of the mortgaged land. By such a mortgage a raiyat can raise a loan by giving over possession of a lesser portion of his holding than in the case of a complete usufructuary mortgage. In these days when an average holding has become highly uneconomic and when the raiyat has no credit for obtaining loans except by mortgage, it will practically amount to forcing him to insolvency as he would be left with no option but to mortgage almost his entire holding and thereby be reduced to a state of pauperism till such a loan is repaid.

This is, moreover, an infringement of his absolute right to transfer and as such should not be permitted at a time when his unrestricted right to transfer is being recognised by the abolition of the landlord's fee. If, however, it is argued that this clause is being introduced to guard against the raiyats getting easy loans and thus being tempted to become indebted, this argument may be stultified by making a provision for an ordinary usufructuary mortgage. The entire debt may be legally declared to be wiped out by a court when it will be proved that the mortgagee has enjoyed sufficient usufruct to cover his principal and interest.

This is the point, Sir, that I wish to make. Our motive in this case is, in the first place, to prevent raiyats from being compelled practically to mortgage their entire holding to secure loans, and it is my submission, Sir, that it will be practically forcing them to part with their entire holding for this period in order to secure a loan. I hope, Sir, that I shall get the support of my friends on the other side.

With these few words, I commend my motion to all sections of the House.

Mr. PRESIDENT: Motion moved that sub-clause (*1*) of clause 7 of the Bill be omitted.

Mr. HAMIDUL HUQ CHOWDHURY: Mr. President, Sir, I beg to support the amendment moved by my friend Mr. Naresh Nath Mookerjee. There are three portions in section 26G which is proposed to be amended by clause 7. One portion refers to past transactions; another portion refers to future transactions which are of a complete usufructuary nature; and another part refers to a usufructuary mortgage which may either be complete or not. Sir, we are committeed to the first two parts, viz., past transactions and also to section 1 which is not before us and which relates to a complete usufructuary mortgage, but this one, Sir, which is added after sub-section (*1*) aims at prohibiting any kind of usufructuary mortgage whether it is complete or not beyond a period exceeding fifteen years. The real danger which I apprehend is this that the combined effect of all these provisions will be to compel a tenant to part with his entire holding for all times to come and to sell away his land, when he can, by mortgaging his land for a certain period—it may be fifteen, twenty or twenty-five years—to raise the necessary funds for repaying his loans or meeting other necessities. If he is prohibited from doing so, his only alternative will be to sell away his holding or to have recourse to such mortgages. Therefore, I submit, Sir, that it should not be the policy of the Legislature to create all sorts of facilities and all sorts of compulsions for the purpose of compelling a poor man to sell his entire land.

There is under the present condition of society no public institution for the supply of credit facilities to the tenants and on account of the working of the Bengal Agricultural Debtors Act, there is a general distrust among the *mahajans* to invest their money, because they do not know what would be the position as regards the money they lend two years hence. Therefore, you create another complusion by which you practically compel the tenant to sell his land, who could otherwise raise a loan on the security of his land. If the tenant cannot get the fund that he requires by mortgaging his land for a longer period, in that case he will be compelled to sell his entire holding.

As regards safeguards preventing excessive interest by this provision, I think there is no necessity for it because we have got the Money-lenders' Act which is very shortly going to be amended by which it has been proposed to fix the rate of interest at 6 or 6¼ per cent. which shall be applicable to all contracts. If, therefore, it is accepted, it will sufficiently safeguard all mortgagors so that in no case can a mortgagor be compelled to pay interest, whether it is with security or without security, at a rate higher than that which is fixed by the Money-lenders' Act. As we are going to have another Act for the purpose of prohibiting excessive interest, there is no necessity for creating this difficulty in the way of tenants. In illustrating by an example, I may say that supposing a tenant has got two *bighas* of land and he wants to have a loan of Rs. 200 for a certain contingency of his, which, he thinks, he will be able to repay within twenty or twenty-five years. He wants to keep one *bigha* for his family use and part with one *bigha* and raise Rs. 200. He can raise this Rs. 200 by mortgaging this one *bigha* of land if he makes an agreement with the *mahajan* that in lieu of interest at 6 and 6¼ per cent., he will give his land in mortgage and the land being one *bigha*, his mortgage must be, in the very nature of things, for more than fifteen years. But by the operation of this clause he will not be able to do it, because he can execute a complete usufructuary mortgage for a period which will not be more than fifteen years. Given such a quantity of land for raising Rs. 200 by which the mortgagee shall be satisfied both as regards the principal as well as the interest for fifteen years, he will have no other alternative but to part with both the two *bighas* of his land. Is it necessary to create such a position for him? Is there any need for compelling him to part with the whole of his land and go without any land for the maintenance of his family for a period of fifteen years? It is very easy to say—sell away the land. If he thinks that by parting with it for a period, he will better preserve his family assets, why then compel him to lose all chances of recovering the land even during his children's life-time? Therefore, I think that this clause which is proposed to be added to sub-section (*1*), is useless and more harmful than what is supposed to be on the face of it.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to oppose the amendment. It has been said that by this provision of section 26G we will be practically preventing the tenants from raising money for tiding over his difficulties. It is not at all correct. The tenant will be quite at liberty to secure any amount of money by mortgaging his land for any number of years allowed by law. It is only when he has to part with land that the law intervenes which says that he must not part with his land for more than a certain number of years. It is in consonance with the recommendations made by the Royal Commission on Agriculture. The Royal Commission on

Agriculture remarked in their report, and I may read an extract with your permission that "no usufructuary mortgage of agricultural land should be permitted by law unless provisions were made for automatic redemption within a fixed period of years of which twenty should be the maximum". This recommendation was certainly based on the principle that a cultivator should not part with his land on which he has to depend for cultivation, entirely and specially in the case of Bengal, it is still more applicable, because the average area that a cultivator possesses is so small—it is only 1 acre per head—and it is not enough for a man to live on. If out of this again he has to part with a portion, he can never expect to get it back in his life-time. In 99 per cent. of these usufructuary mortgages the tenant will never be able to get back his land. The result is that he parts with his land at half the usual market price. For preventing this contingency, this provision has been made and it is in full consonance with the recommendation of the Royal Commission on Agriculture. With these words, I oppose the amendment.

Mr. NUR AHAMED: I oppose this amendment. Sir, I am sorry to say that I am not convinced by the argument advanced in favour of the amendment and I say there is some misconception about it. The purport of the proposed amendment is to declare that all mortgages other than the complete usufructuary mortgage entered into up to the commencement of the amending Act of 1938, shall have no force and effect, and it will appear from sub-section (*1*) of section 26G of the Act of 1928 that the right of entering into a complete usufructuary mortgage was given to the tenants for the first time and sub-section (*4*) of that section declares that occupancy raiyats shall not be entitled to enter into any form of mortgage other than the complete usufructuary mortgage. It so happens that in spite of this clear provision of law, usufructuary mortgages were entered into and registered. Now it is found that usufructuary mortgage, provided by sub-section (*4*) has been entered into and enforced. It is most harmless. This clause only clears the position that this sort of usufructuary mortgage which has been entered into in clear contravention of sub-section (*4*) of section 26G, shall have no effect and thereby nobody will be affected in the eyes of law. In fact, these mortgages are inoperative and invalid in the eyes of law. It has actually been added in order to save litigation.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment on a very general principle. The main objection, as I understood from the speech of the mover of this amendment, is that if it is accepted, it would prevent the agriculturist from raising loans by mortgaging any part of his holding. It will not be the effect. We are giving him full liberty to mortgage his land for fifteen

years. Now let us find out what return it will bring to the money-lender, whether a mortgage for fifteen years will or will not be sufficiently tempting to him, whether he will, in any way, be hurt if this limit is applied—that is the main test. I was just trying to calculate it. Take for instance, there are three *bighas* of land. Three *bighas* of land may easily produce in this province something like eighteen maunds of paddy. Taking the price of paddy at Rs. 2 per maund which is the normal price (of course we are now passing through an abnormal period of depression) the total price comes to Rs. 36. The price of straw for three *bighas* of land may be taken at Rs. 6. That gives a total of Rs. 42. Deduct from it half the amount as cost of cultivation, then the balance is Rs. 21. From that let us deduct Rs. 3-8 as rent. That leaves us Rs. 17-8 as. From that again I would deduct Rs. 2-8 as. for failure of crop or drought or such other contingencies. This leaves a clear profit of Rs. 15 out of three *bighas* of land. Suppose the money advanced on three *bighas* of land was Rs. 75 which nobody will do now-a-days but even taking it at Rs. 75, how much the money-lender gets in fifteen years? Rs. 225. From that let us deduct the principal Rs. 75 and the net profit is Rs. 150 or nearly 13⅓ per cent. interest. I put it to the hon'ble members whether they really consider the return of 13⅓ per cent. to be a very low rate of interest. Is it not sufficiently tempting to a money-lender? Will it prevent the money-lenders from advancing money on mortgages of fifteen years? Will it render the agriculturists incapable of raising Rs. 75 if he wants to, by mortgaging three *bighas* of land? In my opinion, it will not, and I place these figures before the hon'ble members and request them to come to their own conclusions. I think that is a complete answer to the argument that we are going to do away with the credit of the cultivator——

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: But an incomplete argument!

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have not yet completed. Or it is going to prevent the money-lenders from lending money on agricultural land.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: What about drought and inroad of river water?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I only wish that the Maharaja were more attentive. I have deducted Rs. 2-8 as. annually under this head. I am prepared to make a further deduction.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: It will not be attractive.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is quite attractive. I do not think that we should encourage money-lenders by offering more tempting bargains. If we are really sincere in our profession of giving relief to the agriculturists, I hope the House will accept the amendment of Government without any modification.

Mr. PRESIDENT: The question before the House is that sub-clause (*1*) of clause 7 of the Bill be omitted.

The House divided:—

AYES—19.

Banerjee, Rai Bahadur Keshab Chandra.	Pal Choudhury, Mr. Ranajit.
Bose, Rai Bahadur Manmatha Nath.	Poddar, Mr. H. P.
Chakravorti, Mr. Shrish Chandra.	Ray Chowdhury, Maharaja Sir Manmatha Nath of Santosh.
Chaudhury, Mr. Moazzemali.	Sanyal, Mr. Sachindra Narayan.
Chowdhury, Mr. Hamidul Huq.	Sarker, Rai Sahib Indu Bhusan.
Das, Mr. Lalit Chandra.	Sen, Rai Sahib Jatindra Mohan.
Datta, Mr. Bankim Chandra.	Sinha, Rai Bahadur Surendra Narayan.
Dutta, Mr. Kamini Kumar.	Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Goswami, Mr. Kanai Lal.	
Maitra, Rai Bahadur Brojendra Mohan.	
Mookerjee, Mr. Naresh Nath.	

NOES—30.

Ahamed, Mr. Nur.	Huq, Mr. Syed Muhammad Ghaziul.
Ahmad, Mr. Naziruddin.	Ibrahim, Khan Bahadur Maulvi Mohammad.
Ahmed, Mr. Mesbahuddin.	Jan, Khan Bahadur Shaikh Muhammad.
Baksh, Mr. Kader.	Karim, Khan Bahadur M. Abdul.
Barua, Dr. Arabinda.	Khan, Khan Bahadur Muhammad Asaf.
Chowdhury, Khan Sahib Abdul Hamid.	Khan, Maulana Muhammad Akram.
Chowdhury, Mr. Khorshed Alam.	Molla, Khan Sahib Subidali.
Chowdhury, Mr. Humayun Reza.	Momin, Begum Hamida.
Chowdhury, Mr. Rezzaqul Haider.	Rahman, Khan Bahadur Ataur.
Cohen, Mr. D. J.	Rahman, Mr. Mukhlesur.
D'Rozario, Mrs. K.	Rashid, Khan Bahadur Kazi Abdur.
Ellahi, Khan Bahadur S. Fazal.	Roy, Rai Bahadur Radhica Bhusan.
Esmail, Khwaja Muhammad.	Roy Chowdhury, Mr. Krishna Chandra.
Hosain, Khan Bahadur Saiyed Muazzamuddin.	Shamsuzzoha, Khan Bahadur M.
Hossain, Mr. Latafat.	Singh Roy, Mr. Saileswar.

The motion was lost.

Mr. BANKIM CHANDRA DATTA: Sir, I beg to move that in clause 7 of the Bill, sub-clause (*2*) be omitted.

Sir, I do not think it requires any speech to commend this amendment to the House. The retention of this clause, I think, offends against the universally accepted proposition, that the sanctity of the contract should be respected. Sir, I think Government took expert opinion, the opinion of their District Officers that it would affect the contracts made in good faith even before 1928 and it was hardly fair that such contracts, made without the knowledge of things to come,

should be amended by law so as to affect one party prejudicially. This opinion is, I think, practically unanimous and I would like, with your leave, to read only one sentence from the report of the Collector of Bakarganj. He says: "the proposal has already been widely misunderstood and innumerable criminal cases have been started this year because the mortgagors have taken forcible possession of the crops on mortgaged land as well as the land itself."And in his own opinion, if this goes on, there will be complete chaos and all parties will suffer. May I, in all seriousness, therefore, ask the Government if it is their opinion that they want by the insertion of this clause to introduce complete chaos and inflict sufferings upon the people? In that view I move that this sub-clause (2) of clause 7 be omitted.

Mr. PRESIDENT: Motion moved that in clause 7 of the Bill sub-clause (2) be omitted.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I rise to oppose this amendment. The mover has said that we should not go back upon the contract. Ordinarily, Sir, everybody would agree that the sanctity of the contract should be respected, but when the contract is unconscionable, is it not the duty of the Legislature to intervene and cry halt? I think, Sir, it has been proved already in connection with the previous amendment that the contract is really unconscionable, if it be beyond a certain number of years, because, at the rate of interest now prevailing in the country, the mortgagee would be getting from the usufruct of the land much more than what he would ordinarily get under the Money-lenders' Act. So I think, Sir, that this contract itself is an unjust contract; and just as in the case of a contract between an ordinary debtor and creditor, the Money-lenders' Act intervenes, and sets at naught a contract which is unconscionable, similarly in this case the law should intervene and set at naught a contract which is insupportable according to all canons of justice. With these words I oppose the amendment.

Mr. LALIT CHANDRA DAS: Sir, I rise to support this amendment which has been moved by my leader, Mr. Bankim Chandra Datta. My friend Khan Bahadur Muazzamuddin Hosain has said that it will inflict a great hardship upon the agriculturists, and its effect will be practically the restoration of section 26G (as it stood) of the Bengal Tenancy (Amendment) Act, 1928. If this amendment is carried, then the agriculturists' usufructuary mortgage will only be for fifteen years and not more, with this difference that it will have no retrospective effect, as no law ought to have it. With these words I support this motion.

Mr. NAZIRUDDIN AHMAD: Sir, I beg to submit that this proposal to delete sub-clause (*2*) of clause 7 is the same gentleman in another disguise. The first move of the opposition was to delete clause 7 altogether and now the objection has been split up into compartments. The first attempt to delete clause 7 *in toto* having failed, they next tried to delete sub-section (*1*) and having failed there, they now attack sub-clause (*2*). This is, therefore, a renewal of the same attack—this time on the instalment system. I, therefore, oppose the motion.

Mr. NUR AHAMED: Sir, I beg to oppose the amendment. It will appear that by reason of section 26G the occupancy raiyat was given the right of entering into complete usufructuary mortgage for fifteen years and by section 4 they were debarred from entering into any other form of mortgage, but from the amendment it appears that the law is going to be changed. By omission of sub-clause (*4*) of old section 26G occupancy raiyats are now given the rights of entering into any other form of usufructuary or other mortgages other than complete usufructuary mortgage for fifteen years; so by this amendment it is proposed to introduce a uniformity of law in respect of mortgages except complete usufructuary mortgage. So this sub-clause sub-clause (*2*), is a corollary of clause 7, sub-clause (*1*), and it has got its importance and should not be deleted.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to support this amendment and in supporting it I only wish to say just a few words in reply to what my hon'ble friend Khan Bahadur Saiyed Muazzamuddin Hosain has said. He has said that contracts being unconscionable, the Legislature should step in to put it right. But my submission is that where a contract is unconscionable, it is not for the Legislature to step in but it is for the law courts to do so. This state of things has been going on for a considerably long period of time, and if it is against public policy or if the working of the section has, as a matter of fact, brought great miseries on the mortgagors, legislation should have been effected long long ago. As a matter of fact, we know that this practice has been going on for a very long time and a lot of money has been invested by the mortgagee on acceptance of this sort of mortgage. The Hon'ble Revenue Minister has said that the object of bringing in this legislation is to give relief to the mortgagors who are mostly occupancy raiyats. I should like to hear from him, if he has got any statement of the number of mortgagors who have been affected by this unjust section, as they call it. This side of the House would also like to have the number of people who would be benefited by this amendment and those who would be hard hit by it. It has been said that a large amount of money has been invested by actual cultivators, and every one knows that we have received a number of representations from persons affected by this proposed legislation,

coming from the districts of Chittagong and Burdwan Divisions. In a matter of this nature, the interests of all concerned should be taken into consideration. We hear a good deal in this House regarding the miseries of the tenants and that steps should be taken for ameliorating their condition. But mere words to that effect will not carry conviction unless we get facts and figures. So I appeal to the Hon'ble Revenue Minister to furnish the House with facts and figures while giving reply to this amendment.

Mr. KADER BAKSH: Mr. President, Sir, I congratulate my hon'ble friend Rai Sahib Jatindra Mohan Sen for giving a new light on this question. He has asked for figures, but I would ask him whether he has cared to collect figures as to who will be hard hit by this legislation. Will more people suffer or be benefited by it? I do not know whether he is in full possession of facts regarding this matter.

Be that as it may, when he has said that as the contract is unconscionable, the party affected should go to the law court, I want to remind him of the very helpless condition of the borrower which compels him to borrow money, and this will in itself stand in the way of his going to a law court to seek relief. Now, Sir, with regard to a thing which is unconscionable, cruel and unfair and in regard to which one party is placed in a comparatively advantageous position,—in such a matter the Legislature should interfere in public interests. I admit, that every time a man has to run to a law court, there will be a certain amount of gain to the lawyers to which my frined Rai Sahib——

Mr. PRESIDENT: Order, order. No motive should be attributed.

Mr. KADER BAKSH: I say, Sir, it may be a game to us, members of the legal profession, but it will mean great hardship to the people who will have to run to law courts.

Sir, it is a contract entered into by two parties, one of which is in position of advantage and the other ignorant, inarticulate and helpless, so much so, that he cannot help borrowing money even at exorbitant rate of interest demanded of him by the other party. It is impossible for such men to run to law courts to seek redress. Therefore, I beg to submit that this period of fifteen years, as the Hon'ble Revenue Minister has shown, is more than fair——

Mr. PRESIDENT: Where did the hon'ble member get fifteen years? It is twenty-five years.

Mr. KADER BAKSH: I am sorry, Sir. Twenty-five years is too long a period. For, a man who mortgages his property will not be, in all probability, able to get it back during his life-time.

With these words, I beg to oppose this amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I have already spoken on the principle underlying this clause. Retrospective effect generally is not desirable, but there may be occasions when retrospective effect should be given, and Government consider that this is one of such occasions. The country had passed through a serious economic depression since 1930, and many of these agriculturists had to place their lands under usufructuary mortgage. The mortgagees will get more than they deserve, as I have already shown. So it is only just and fair that the poor agriculturists should be given a chance of getting back their land.

Mr. PRESIDENT: The question before the House is that in clause 7 of the Bill, sub-clause (2) be omitted.

The House divided:—

AYES—19.

Banerjee, Rai Bahadur Keshab Chandra.
Bose, Rai Bahadur Manmatha Nath.
Chakravarti, Mr. Shrish Chandra.
Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Dutta, Mr. Kamini Kumar.
Goswami, Mr. Kanai Lal.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Haresh Nath.
Mukherji, Rai Bahadur Satis Chandra.
Pal Choudhury, Mr. Ranajit.
Poddar, Mr. H. P.
Ray Chowdhury, Maharaja Sir Manmatha Nath of Santosh.
Sanyal, Mr. Sachindra Narayan.
Sarker, Rai Sahib Indu Bhusan.
Sen, Rai Sahib Jatindra Mohan.
Singh Roy, Mr. Saileswar.
Sinha, Rai Bahadur Surendra Narayan.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

NOES—29.

Ahamed, Mr. Nur.
Ahmad, Mr. Naziruddin.
Ahmed, Mr. Mesbahuddin.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Choudhury, Mr. Moazzemali.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Chowdhury, Mr. Humayun Reza.
Chowdhury, Mr. Rezzaqul Haider.
Cohen, Mr. D. J.
D Rozario, Mrs. K.
Ellahi, Khan Bahadur S. Fazal.
Esmail, Khwaja Muhammad.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Huq, Mr. Syed Muhammad Ghaziul.
Ibrahim, Khan Bahadur Maulvi Mohammad.
Jan, Khan Bahadur Shaikh Muhammad.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Khan, Maulana Muhammad Akram.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Rahman, Khan Bahadur Ataur.
Rahman, Mr. Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Roy Chowdhuty, Mr. Krishna Chandra.
Shamsuzzoha, Khan Bahadur M.

The motion was lost.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I beg leave to divide my amendment into two parts.

Mr. PRESIDENT: You move it. At the time of putting it I shall see whether it can be divided.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I move that in clause 7 (*2*) of the Bill in proposed sub-section (*1a*) after the words "every usufructuary mortgage" the words "executed for actual and *bona fide* debt" be inserted.

This is the first part, Sir. The other part is dependent upon some other amendments which being carried, this will have no force. Because it is dependent upon the period twenty-five years being reduced to fifteen years.

Mr. PRESIDENT: You move the first part now.

Mr. HAMIDUL HUQ CHOWDHURY: In moving the first part, Sir, I shall explain why I have given notice of this amendment. The position before 1928 was that in respect of certain occupancy holdings, the raiyats had no right of transfer. But circumstances used to be created in such a way as to leave the tenants no other way but to sell their entire holdings, and they in order to give a valid title to the transferee had recourse to this form of transfer, describing it as usufructuary mortgage for a period of 999 years. These cases are not very rare, and my amendment is only for the purpose of protecting those transfers which are really out and out sale, only made under the garb of usufructuary mortgage for a long period, for the purpose of preventing the landlord from making a re-entry into the land on the supposition that there has been an abandonment of the holding. Therefore, Sir, ordinarily the courts of law are sure to interpret, when we use the word usufructuary mortgage in section 26G—a usufructuary mortgage as a real debt. But while on paper it is described as mortgage, the court is certain to take cognizance of it, and in order to make it more clear and imperative on the court to save these out-and-out sales from the operation of fifteen-year or twenty-five-year rule, I submit, Sir, that this amendment has become necessary. Therefore, I commend this to the acceptance of the House.

Mr. PRESIDENT: Motion moved that in clause 7 (*2*) of the Bill in proposed sub-section (*1a*) after the word "every usufructuary mortgage" the words "executed for actual and *bona fide* debt" be inserted.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to oppose this motion. By the amendment which has just been moved, the hon'ble member wants to make concession in favour of a transaction of a shady nature which we think will not be proper at all

for us to do. Those transactions which were really of the nature of sale, but were executed in the form of a mortgage are clearly calculated to deceive somebody. It is only fit and proper that penalty should be paid for wrong doings, and so the Legislature should not make any concession in favour of such persons who had been parties to such transactions. With these words I oppose this amendment.

Mr. NAZIRUDDIN AHMAD: Sir, the effect of this amendment would be to whittle away the clause altogether. The clause would apply to every class of usufructuary mortgage but the amendment would restrict it to those cases which were executed for "actual and *bona fide* debt". Though clothed in innocent-looking verbiage, it is certain to introduce complications. What was certain and definite would be a subject of speculation. Practically the amendment means that in every case the party, *i.e.*, the debtor will have to go to court or will be dragged to court to have an adjudication as to whether the usufructuary mortgage was executed for *actual* and *bona fide* debt. The onus would be on the debtor which it would be difficult for him to discharge. If he loses he loses all—his property as well as money. If he wins, he achieves a sentimental victory at a ruinous cost in fighting out the matter in two or three courts. The purpose of the Bill clause is a humane one, namely, to give him redress automatically and without the help of a court, but the purpose of the present amendment would be to force him to go to court—the very object which the clause attempts to avoid. This amendment, I submit, is a most pernicious attempt to whittle away a very beneficial clause.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the hon'ble member in moving his amendment suggested that because the tenants had not the right of transferability of occupancy holdings before 1928, they had to enter into a sort of transaction which was really "sale" but was described as mortgage. But I venture to think that the tenants are shrewd enough to avoid the difficulties created by law and they could easily and as a matter of fact, they did exclude only a portion of the holding just to avoid the difficulties created by the absence of the right of transfer. The question of abandonment could not have arisen if the whole holding was transferred. So I am almost certain that in the majority of cases the mortgagor excluded a portion of the holding when he wanted to place it really under mortgage, and not actually to transfer by sale. Sir, the amendment of the mover as worded, if accepted by the House, is sure to lead to serious complications. Who will decide which is a case of *bona fide* debt and which is not? This means that the parties must go to court before getting relief. We do not want to force the poor mortgagor to go to court. The idea is to give him relief without further expenditure. Now, Sir, in every

case the tenant will claim that his was a case of *bona fide* debt, whereas practically in every case the mortgagee will try to prove that it was not so but it was a case of sale. So that will lead to ruinous litigation and ultimately the mortgagor will have nothing left to get back. On these grounds, I oppose this amendment.

Mr. HAMIDUL HUQ CHOWDHURY: It requires an explanation in view of the answers given by the other hon'ble members to the points involved in this amendment.

The Hon'ble Khwaja Sir NAZIMUDDIN: May I ask a question, Sir? Has the hon'ble mover moved this amendment in his capacity as leader of the newly-formed Progressive Party?

Mr. HAMIDUL HUQ CHOWDHURY: As the question has arisen, I wish to say that it has been moved in the interests of the *mahajans*. (Hear! Hear!!)

Mr. PRESIDENT: The question before the House is that in clause 7(*2*) of the Bill in proposed sub-section (*1a*) after the words "every usufructuary mortgage" the words "executed for actual and *bona fide* debt" be inserted.

The motion was lost.

Mr. MOAZZEMALI CHAUDHURY: I beg to move that in clause 7(*2*) of the Bill in proposed sub-section (*1a*) after the words "usufructuary mortgage" occurring in line 3, the words "or mortgage by conditional sale (*kat kabala*) or mortgage that is ostensibly simple but in fact incomplete usufructuary mortgage executed in the form of simple mortgage to evade the provisions of the law" be inserted.

Mr. PRESIDENT: Motion moved that in clause 7(*2*) of the Bill in proposed sub-section (*1a*) after the words "usufructuary mortgage" occurring in line 3, the words "or mortgage by conditional sale (*kat kabala*) or mortgage that is ostensibly simple but in fact incomplete usufructuary mortgage executed in the form of simple mortgage to evade the provisions of the law" be inserted.

Mr. KAMINI KUMAR DUTTA: I rise on a point of order, Sir. This comes as an amendment under section 26G of the amending Act. Section 26G of the Bengal Tenancy Act only deals with complete usufructuary mortgages and the Act itself does not deal with any other form of mortgage. Complete usufructuary mortgage has been defined

in section 3, sub-clause (*3*). Now there are different kinds of mortgage not defined in the Bengal Tenancy Act but defined in the Transfer of Property Act. There are, simple mortgage, usufructuary mortgage, mortgage by conditional sale, English mortgage, anomalous mortgage, all these mortgages have different incidence of their own. The mortgage by conditional sale is absolutely different from the usufructuary mortgage. A mortgage by conditional sale which is called *kat kabala* is really sale with a condition of re-conveyance. It is not necessarily a usufructuary mortgage and in the eye of law it is not a usufructuary mortgage. Usufructuary mortgage is really not a sale, but a mortgage by conditional sale is really sale only with a covenant of re-conveyance. So this amendment is out of order, because it wants to extend not only the scope of the amending Act but the scope of the Bengal Tenancy Act itself. Even the original section 26 had nothing to do with mortgage by conditional sale. So I would like to say that this amendment is absolutely beyond the scope of the amending Act and beyond the scope of the Bengal Tenancy Act and, therefore, it is out of order.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, may I speak on this point of order? I can give a reply to the hon'ble member, Mr. Kamini Kumar Dutta. I wish to say that usufructuary mortgage is also a mortgage by conditional sale, even according to the Transfer of Property Act.

Mr. PRESIDENT: His point is that not only in this amending Bill, but in the Bengal Tenancy Act itself, there is no provision dealing with such *kat kabala* or the conditional sale, which is not, really speaking, a usufructuary mortgage. That is his contention.

I agree with the contention that this would be extending the scope of the Bill and I, therefore, rule that this amendment is out of order.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: On a point of information, Sir. May I know how long we are going to sit to-day? As a matter of fact, we on this side of the House are under the impression that we shall sit up to 4-30 p.m. and not later than that. We have had no previous intimation that we shall have to sit for a longer period. If the House sits later than 4-30 p.m., it will upset all our previous engagements.

Mr. PRESIDENT: What is the Government's suggestion?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, we are prepared to sit up to 5-30 p.m. In fact, that is why the Assembly is going to sit at 6 o'clock, in order to give us more time to dispose of our business.

Khan Sahib ABDUL HAMID CHOWDHURY: Sir, we have got a meeting of the Privilege Committee to-day at 4-30 p.m. So, it will rather be impossible for us to sit later than 4-30 p.m.

Mr. PRESIDENT: The Chair is agreeable to sit as late as Government or the members of the Council may like. But to-day as there was no previous intimation that Government are prepared to sit for a longer period, we will sit up to 4-30 p.m. In future, however, we shall have to sit late to complete the business.

The Hon'ble Mr. H. S. SUHRAWARDY: Thank you, Sir.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is all right, Sir.

Mr. NUR AHAMED: Mr. President, Sir, I beg to move that in clause 7 of the Bill for the word "twenty-five" wherever it occurs, the word "fifteen" be substituted.

Sir, on this point, a good deal of discussion has already taken place in this House. In the original Bill a period of fifteen years was provided for, but in the Select Committee this figure was altered to twenty-five years. On going through the report of the Select Committee, I find that the reason which led the members of the Select Committee to make this alteration was that in their opinion the period of fifteen years would operate harshly and arbitrarily on the mortgagees. In reply to that I may cite the learned opinion of no less a learned body than the Royal Commission on Agriculture. In the opinion of the members of that Royal Commission, no usufructuary mortgage should be entered into for a period of more than twenty years, but considering the fertility of the land in this province and also in view of other facts operating therein, it was thought that the period of fifteen years would be sufficient for the purpose. As I have already said, in the original Bill the period of fifteen years was provided, and in my opinion the Select Committee arbitrarily altered this period to twenty-five years.

I propose by this amendment to restore the original figure "fifteen" in place of "twenty-five" wherever it occurs in this Bill.

Mr. PRESIDENT: Motion moved that in clause 7 of the Bill for the word "twenty-five" wherever it occurs, the word "fifteen" be substituted.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, I rise to oppose the motion of Mr. Nur Ahamed who wants to substitute the word "fifteen" in place of the word "twenty-five". Sir, my reason is this:

the matter was given due consideration in the Select Committee. Now, Sir, there was a consensus of opinion——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: On a point of order, Sir. The details of what take place in a Select Committee are always confidential and cannot be given out.

Mr. PRESIDENT: Yes, the proceedings of a Select Committee are confidential, and they must not be referred to.

Mr. LALIT CHANDRA DAS: All right, Sir. The principal reason why I rise to oppose this motion is this: there were several cases of the tillers of the soil taking usufructuary mortgages before 1928 for quite a large number of years. Now that retrospective effect has practically been given and those usufructuary mortgages have also been affected by the new provisions of section 26G, that is to say, as those usufructuary mortgagees will not be able to enjoy the benefit of the contract into which they entered, I think it would only be fair to them if the period of fifteen years is raised to twenty-five.

With these few words, Sir, I oppose the amendment of Mr. Nur Ahamed.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Mr. President, Sir, I rise to support the amendment of Mr. Nur Ahamed. In this connection, I shall quote a short passage from the report of the Bengal Banking Enquiry Committee of 1930 where it is stated that "loans to agriculturists, given on the security of their holding, generally bear interest from 18¾ to 37½ per cent., the latter rate being usually the common rate." At the rate of 37½ per cent., which is the usual rate, the interest would be double of the principal in less than six years. On taking the mean between 18¾ and 37½ which is about 28 per cent., it is found that the interest would double the principal in a little over seven years. At 18¾ per cent., which is the minimum, the interest would double the principal in eleven years. In consideration of the low prices prevailing from 1930 to 1936, another three years can be safely added to this eleven years. Thus in fourteen years the interest will double the principal. Therefore, Sir, according to these figures, fifteen years would be more than justified, and twenty-five years would err on the side of exorbitancy, and if we work out at 18¾ per cent., in twenty-five years the interest would come to 466 per cent. of the principal which, I think, is much too heavy, and even the money-lenders could not justify this in the case of an ordinary debtor. If this amendment is not accepted, it would have the effect of refusing even the ordinary consideration to the cultivators. So, I submit that fifteen years would be quite fair, and I support this motion.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, Government are prepared to accept this amendment——

Rai MANMATHA NATH BOSE Bahadur: Sir, I want to say something.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have no objection, Sir, to the Rai Bahadur speaking before me. Shall I sit down?

Mr. PRESIDENT: No, you proceed with your speech. The Rai Bahadur will have an opportunity of speaking later on.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am prepared to accept the amendment of Mr. Nur Ahamed. As I have already explained by an illustration that a man lending Rs. 75 will get Rs. 225 in fifteen years' time, i.e., he will get more than 13⅓ per cent. interest, so I think fifteen years is a very reasonable period, and there is no justification for increasing it to twenty-five years.

Rai MANMATHA NATH BOSE Bahadur: Mr. President, Sir, I beg to oppose this motion moved by my hon'ble friend Mr. Nur Ahamed. As a matter of fact, in this connection, I want to draw your attention to the observation which has been made by the Collector of Midnapore. This will be found from a *précis* of the report circulated amongst the members. The Collector of Midnapore thinks that if this clause is passed into law, the mortgagee will rarely get even the principal—not to speak of interest—from a usufruct of his land in fifteen years. In support of his argument he has submitted certain facts and figures, and I beg to submit that if this be the state of things in the district of Midnapore, I have not the least doubt that this will be the state of things in other districts as well. So, a period of fifteen years would be quite insufficient, and the period which was arrived at in the Select Committee, viz., twenty-five years should be maintained. Specially in those cases where there is drought, flood and so on and so forth, fifteen years would be quite insufficient.

Mr. KADER BAKSH: Sir, it has been argued by Rai Manmatha Nath Bose Bahadur on the basis of the report of the Collector of Midnapore that fifteen years is quite insufficient for liquidating the amounts advanced. I submit that fifteen years in the life-time of a man is not a short period—it is a very long period—and to keep a man out of possession of his property for more than fifteen years is nothing but purely Shylock-like tendency. Now, fifteen years' enjoyment of a piece of land, if that land has been properly utilised, would bring back not only the principal but would also bring interest at a rate which

is not less than 30 per cent. Midnapore is not the only district to be taken into consideration. There are other districts as well. I have got experience of the district of Dinajpur. In that district, the mode in which advances are made would enable one not only to liquidate the principal in six years, but also allow interest at the rate of 36 per cent. So, if the people of Midnapore had been foolish enough to take upon themselves a longer period, the law cannot help them. The generality of the cases must be taken into consideration, aml not this district or that district, for deciding an important question like this. Therefore, I submit that fifteen years is a long period and is quite enough for the purpose of liquidating debts. With these remarks, I beg to support the amendment of my friend, Mr. Nur Ahamed.

Mr. NAZIRUDDIN AHMAD: Sir, the question is really a choice between two standards—whether twenty-five years should be the standard or fifteen years should be the standard of automatic release of usufructuary mortgages. I would refer to sub-section (*1*) of section 26G. It will not be necessary to read the whole of the sub-section. There the standard laid down is fifteen years. There has been no amendment to this.

Mr. LALIT CHANDRA DAS: But there is no retrospective effect——

Mr. NAZIRUDDIN AHMAD: I know. The idea behind sub-section (*1*), as it stands, is that at the end of fifteen years, the guillotine rule applies and the usufructuary mortgage is to be considered as completely paid off and the property will be automatically released, and once we concede that standard, it is difficult to see how we can apply a different standard when we merely give retrospective effect to the same. The question as to whether we should give retrospective effect or not is entirely foreign to the present question. The period for automatic satisfaction should always remain the same irrespective of retrospective effect and the point raised by Mr. Das has no relation to the matter. The simple question is what the standard should be and I believe that fifteen years' standard, which is already fixed by sub-section (*1*), is the proper one. The case for a consistent standard is, I submit, obvious.

Khan Bahadur MOHAMMAD IBRAHIM addressed the House in Bengali. The following is the English translation of his speech:—

Mr. President, Sir, my opinion on the subject under discussion is that if the interest is calculated at 6¼ per cent., it will be a big sum in the course of fifteen years. If it is calculated even at 3⅛ per cent., then also a sum doubles itself. Under the recent rules of the Debt Settlement Boards interest, double the amount of the principal, is not

allowed. The fifteen-year limit has been excessive, yet I would support it. I shall here cite an example of what happens in *mufassil*. A certain man had borrowed a sum of money from a *mahajan*. But the debt could not be paid off even after two generations of physical labour. The third generation, however, cleared the debt with considerable difficulty and said, "From to-day I am free from the clutches of my *mahajan*". These words reached the ears of the said *mahajan* who called the debtor to his side and said, "Well, you have paid off your debt no doubt, but I cannot let you go unless you eat something". He was given some *chida* and curd to eat. For this 4 as. was debited against him then and there. Sometime after on the basis of the amount (i.e., principal 4 as. and the interest on it) the *mahajan* turned him again into a usufructuary mortgagor. In this way the tenants are deprived of their all by the *zemindars* and *mahajans*. On this issue there has already begun a conflict between capital and labour. In the circumstances, the fifteen-year limit appears to be too high. Still, when it has been decided upon by the members of the Assembly after careful deliberation, I heartily support it.

Rai Sahib INDU BHUSAN SARKER: Sir, in rising to oppose this amendment, I shall say only a few words. I think, Sir, that the price of land has materially gone down owing to the economic condition of the country. It has gone down by at least 25 per cent. This matter has been thoroughly discussed in the Select Committee and it has been decided that the period should be twenty-five years instead of fifteen years. Having regard to the fact that the price of land, has gone down considerably and owing to drought and many other contingencies, I think that twenty-five years should be the proper period for this.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, may I have your permission to speak in Bengali in order to reply to certain questions raised in the speech of Khan Bahadur Maulvi Mohammad Ibrahim?

Mr. NAZIRUDDIN AHMAD: On a point of order, Sir. In view of the fact that Rai Keshab Chandra Banerjee Bahadur can speak in English, can he speak in Bengali?

Mr. PRESIDENT: Rai Keshab Chandra Banerjee Bahadur, no doubt, can speak in English, but he is going to reply to certain questions raised in Bengali by Khan Bahadur Maulvi Mohammad Ibrahim and unless he replies in Bengali, the Khan Bahadur will not be able to follow. So I allow him to speak in Bengali.

The Hon'ble Mr. H. S. SUHRAWARDY: The Khan Bahadur understands English.

Mr. PRESIDENT: Khan Bahadur, do you follow English?

Khan Bahadur Maulvi MOHAMMAD IBRAHIM (in Bengali): It would be better if the hon'ble member speaks in Bengali.

Rai KESHAB CHANDRA BANERJEE Bahadur addressed the House in Bengali. The following is the English translation of his speech:—

Mr. President, Sir, Khan Bahadur Muhammad Ibrahim has pointed out that the cultivators will suffer very much if the twenty-five-year limit is not reduced to a fifteen-year limit. I am at a loss to understand how this will cause inconvenience to cultivators. I am afraid he is labouring under some mistake in regard to the matter. The thing is this: not all usufructuary mortgagees are *mahajans*. Some of the ordinary cultivators become usufructuary mortgagees or accept mortgage under conditional sale. I know personally that 75 per cent. of the usufructuary mortgagees are cultivators and had advanced loan on the security of the adjoining lands mortgaged to them. If the fifteen-year limit is finally fixed, it will never be possible for the usufructuary mortgagees to get back their money from the produce of the fields. After careful consideration the Select Committee have set down the twenty-five-year limit instead of the fifteen-year limit. If any member thinks that the period of fifteen years is a pretty long one, just as my friend Mr. Kader Baksh seems to think that in the life of a man fifteen years is a pretty long time, I would like to say in reply that my friend Mr. Kader Baksh has perhaps forgotten that a fairly long life can be easily secured in this age of science by means of the *kayakalpa* method of treatment and rejuvenation. That being the case, even fifty years, not to speak of twenty-five years, will not be too long a period. With these words I oppose the motion.

Maulana MUHAMMAD AKRAM KHAN addressed the House in Bengali. The following is the English translation of his speech:—

Mr. President, Sir, if my information is correct, our Rai Manmatha Nath Bose Bahadur is the Government pleader of Midnapore.

Rai MANMATHA NATH BOSE Bahadur: No, I am not.

Maulana MUHAMMAD AKRAM KHAN (in Bengali): He has tried to support his own views by referring to the Collector of Midnapore. May I ask how he came to know the opinion of the Collector of Midnapore? I, too, have a piece of paper in my possession. That thing I want to hold before you. I would like to produce it but do not do so because I am afraid that the Hon'ble President may not allow it. It was circulated to the members of the Select Committee on behalf

of the Government. If that very thing has been referred to by the Rai Bahadur, he has placed before us only a very small part of the whole thing—the part that is faulty, and will he now be able to place before us what remains out of the whole?

Mr. PRESIDENT: If Government have no objection to place it before the House, then you can certainly read it.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Government have no objection.

Rai MANMATHANATH BOSE Bahadur: I may be permitted to say that as a matter of fact the Government had in no way treated it as confidential.

Maulana MUHAMMAD AKRAM KHAN: "Government received several petitions purporting to be signed by a number of cultivators objecting to the modification proposed in section 26E of the Bengal Tenancy Act by the Amendment Bill which is at present before the Legislative Council with a view to ascertaining the real position. The Collectors of Bakarganj, Dacca, Mymensingh, Dinajpur, 24-Parganas, Bankura, Birbhum, Midnapore and Noakhali were asked confidentially to make brief enquiries and to report on the following points:—

(*1*) how far the clause if passed into law——

Rai KESHAB CHANDRA BANERJEE Bahadur: On a point of order, Sir. You gave us assurance that the meeting would be closed at 4-30 to-day. Besides, there is another meeting of the Committee of Privileges at 4-30. I, therefore, beg your ruling as to whether he will be allowed to read on.

Mr. PRESIDENT: As it appears that the hon'ble member will take a long time to read the paper, I cannot allow him to read it now.

The House stands adjourned till 2 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2 p.m. on Wednesday, the 30th March, 1938.

Members absent:

The following members were absent from the meeting held on 29th March, 1938:—

(1) Datta, Mr. Narendra Chandra.

(2) Haider, Nawabzada Kamruddin.

(3) Hossain, Mr. Mohamed.

(4) Kabir, Mr. Humayun.

(5) Lamb, Mr. T.

(6) McFarlane, Mr. J.

(7) Mookerji, Dr. Radha Kumud.

(8) Ormond, Mr. E. C.

(9) Ray, Mr. Nagendra Narayan.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 30th March, 1938, at 2 p.m., being the twenty-ninth day of the First Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Fatka Market in Calcutta.

295. Mr. SHRISH CHANDRA CHAKRAVERTI: Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state—

(*a*) whether he is aware of the existence in Calcutta of what is generally called "Fatka Market";

(*b*) whether the Government have made any enquiry into its working in connection with the actual jute market;

(*i*) if so, what is the result of the enquiry, and

(*ii*) if not, whether the Hon'ble Minister proposes to make a sifting enquiry with the help of experts;

(*c*) what were the causes of fluctuations in the prices of jute last year;

(*d*) what were the prices of jute of each species during the months of November and December, 1936, and January, 1937, and what were the prices of the same during the months of November and December, 1937, and January, 1938; and

(*e*) what were causes of difference, if any, of the aforesaid prices of the two years?

MINISTER in charge of the COMMERCE and LABOUR DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): (*a*) and (*b*) Yes.

(*i*) The Committee was of opinion that a future market conducted on sound principles is a necessary link in the present organisation of

the jute trade. Government have thereupon decided that legislative interference from Government was not necessary at this stage, and it should be left to the trade to produce definite legislative proposals.

(*ii*) Does not arise.

(*c*) to (*e*) Government have no information regarding the prices of *puoca* baled jute-M-quality, in respect of which the hon'ble member has informed Government that he seeks information.

Industry and Commerce in Bengal.

296. Mr. LALIT CHANDRA DAS (on behalf of Mr. Narendra Chandra Datta): (*a*) Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state whether he is aware that the industry and commerce in the province are very much undeveloped and handicapped owing to high rate of interest that is charged by banks and insurance companies for borrowed capital of industries and commerce?

(*b*) If so, does the Hon'ble Minister propose to take steps to fix a maximum rate of interest at least for a limited period for industries and commerce to help their growth in the Province?

The Hon'ble Mr. H. S. SUHRAWARDY: (*a*) I have received no such complaint.

(*b*) Does not arise.

The Factories Act and the Payment of Wages Act.

297. Mr. SHRISH CHANDRA CHAKRAVERTI: (*a*) Is the Hon'ble Minister in charge of the Commerce and Labour Department aware of the fact that the Joint Secretary to the Government of Bengal, Commerce and Labour Department, intimated in his letter No. 9393-Com., dated the 18th September, 1937, to the Secretary, Press Employees' Association, Calcutta, that concrete cases of evasions of the Factories Act and Payment of Wages Act should be brought to the notice of the Government?

(*b*) Is it a fact that the Press Employees' Association, Calcutta, brought the cases of evasion of the Factories Act and the Payment of Wages Act in the following presses to the notice of the Government through the Labour Commissioner and Chief Inspector of Factories, between 30th September, 1937, and 4th November, 1937—

(*i*) the Edinburgh Press;

(*ii*) Thacker Press;

(*iii*) Baptist Mission Press;

(*iv*) Mercantile Press;

(*v*) Modern Review Press;

(*vi*) Commercial Gazette Press;

(*vii*) Karimbux Bros.;

(*viii*) Lal Chand & Sons; and

(*ix*) Caratorium Press?

(*c*) Is it a fact that the workers of the St. Andrews' Press of 1, Sun-Yet-Sen Street, Calcutta, submitted a petition to the Labour Commissioner pointing out violation of Payment of Wages Act on the 6th December, 1937?

(*d*) If the answers to (*a*) to (*c*) be in the affirmative, will the Hon'ble Minister be pleased to lay on the table all the correspondence in this connection and to state what action has been taken in the matter, and if no action has been taken, the reasons therefor?

The Hon'ble Mr. H. S. SUHRAWARDY: (*a*) Yes.

(*b*) A petition, dated the 3rd August, 1937, was submitted by a dismissed worker of the Edinburgh Press against his dismissal which did not come under the Factories Act or the Payment of Wages Act.

During the year 1937, fourteen applications were filed with the authority under the Payment of Wages Act by the workers of Messrs. Karimbux Bros. Printing Press claiming a total sum of Rs. 1,501-3-9 against which directions were issued for Rs. 1,464-2-9. Decretal amounts have been realised in all but four cases, in three of which steps have already been taken for realisation of amounts through the Chief Presidency Magistrate, Calcutta.

No cases of evasions of the Factories Act and the Payment of Wages Act in respect of the other presses mentioned were received either by the Labour Commissioner or the Chief Inspector of Factories, between 30th September, 1937, and 4th November, 1937.

(*c*) A complaint against St. Andrews' Press, dated the 11th November, 1937, and not dated the 6th December, 1937, as mentioned in the question, from the Press Employees' Association was received by the Labour Commissioner pointing out alleged evasions of the Payment of Wages Act.

The Press was inspected by an Inspector of Factories but no evidence of infringement of the provisions of the Payment of Wages Act could be found, specially because the workers sided with the employers at the time of enquiry. The Chief Inspector of Factories referred the matter to the authority under the Payment of Wages Act for judicial enquiry

and the authority has written officially to the Press Employees' Association to file complaint formally with him but no such complaint has yet been filed.

(*d*) Copies of the correspondence referred to in (*a*) to (*c*) are placed in the Library.

The hon'ble member is also referred to the reply to clauses (*b*) and (*c*).

Labour Commissioner and his Staff.

298. Mr. SHRISH CHANDRA CHAKRAVERTI: (*a*) Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state whether it is a fact that the post of Labour Commissioner has been created with a separate staff?

(*b*) If so, will the Hon'ble Minister be pleased to state—

(*i*) the expenditure incurred for the pay of the Labour Commissioner and his establishment; and

(*ii*) the duties assigned to the Labour Commissioner and his staff?

(*c*) Is it a fact that the Labour Commissioner visited the Calcutta University Press in September, 1937, on receiving a written representation, as to the grievances of the Press workers?

(*d*) If so, will the Hon'ble Minister be pleased to state—

(*i*) the nature of representation received;

(*ii*) the nature of enquiries made by the Labour Commissioner, if any;

(*iii*) from whom the enquiries, if any, were made;

(*iv*) the steps, if any, taken in the matter; and

(*v*) if no steps have been taken, the reasons therefor?

(*e*) Will the Hon'ble Minister also be pleased to state—

(*i*) the number of representations or information received by the Labour Commissioner, as to the evasion of the provisions of Labour legislations, through individual workers, groups of workers or registered trade unions from June to December, 1937;

(*ii*) the nature of such representations;

(*iii*) the actions taken on those representations; and

(*iv*) if no action has been taken, the reasons therefor?

The Hon'ble Mr. H. S. SUHRAWARDY: (*a*) The post of Labour Commissioner was created several years ago, and he has been assigned a separate staff either as Labour Commissioner or Labour Intelligence Officer—since 1921. The staff consisted of first one, and subsequently two clerks to which the post of Assistant Labour Commissioner was added from the 18th January, 1938.

(*b*) (*i*) The figures for the Labour Commissioner and his staff for the year 1937-38 up to 31st March are—

(1) Labour Commissioner—Rs. 19,550.

(2) Staff—Rs. 4,645-2.

The Labour Commissioner has always been an officer of the Commerce and Labour Department. He draws the above emoluments as the Deputy Secretary of the Commerce and Labour Department and receives nothing additional for being the Labour Commissioner.

(*ii*) Mediation in trade disputes, attending to after effects of strikes, carrying out general industrial welfare works, submitting reports on activities of trade unions, strikes, collection of labour statistics, enquiry into the condition of labour and evolving means for betterment.

(*c*) Yes.

(*d*) (*i*) The representation suggested measures to be taken for the—

(1) immediate introduction of codified rules and regulations regarding the conditions of service of the labouring employees of the University Press;

(2) introduction of rates as obtaining in the Bengal Government Press or introduction of salary system on the basis of the grade obtaining in the Bengal Government Press; and

(3) fixing an equitable pay and grade in proportion to merit and labour for the salaried labouring staff and for placing them on the "superior service".

(*ii*) The enquiries were of a general nature relating to the grievances of the workers.

(*iii*) Enquiries were made from the Registrar of the University;

(*iv*) A Committee of the Senate of the University, presided over by the Vice-Chancellor, was sitting to consider the whole question of press labour and its conditions. It was decided not to interfere with the deliberation of the Committee at that time. On a reference by Government the Registrar of the University has informed that the Committee have not yet completed their deliberations.

(*v*) *Vide* answer to (*iv*) above.

(*e*) (*i*) One representation from a union.

(*ii*) It was a case of alleged evasion of the Payment of Wages Act.

(*iii*) At the instance of the Labour Commissioner, a Factory Inspector visited the establishment where the evasion was alleged to have occurred. After careful investigation of the matter he came to the conclusion that there was no evidence in support of the allegation.

(*iv*) *Vide* answer to (*iii*).

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state, with reference to his answer (*a*), what is the name of the Assistant Labour Commissioner?

The Hon'ble Mr. H. S. SUHRAWARDY: It is Mr. Murshedi.

Mr. LALIT CHANDRA DAS: What was his appointment before he was appointed Assistant Labour Commissioner? Was he a Police Inspector?

The Hon'ble Mr. H. S. SUHRAWARDY: I believe he was.

Mr. LALIT CHANDRA DAS: But how could he get a promotion to the post of Assistant Labour Commissioner?

The Hon'ble Mr. H. S. SUHRAWARDY: I appointed him.

Mr. LALIT CHANDRA DAS: Does not the Hon'ble Minister think that it is a great lift for him to be appointed Assistant Labour Commissioner from a Police Inspector?

The Hon'ble Mr. H. S. SUHRAWARDY: I don't think it is any lift at all. He has joined the post of Assistant Labour Commissioner at some sacrifice to himself and to his prospects.

Mr. SHRISH CHANDRA CHAKRAVERTI: Will the Hon'ble Minister be pleased to state whether he is a relation of the Hon'ble Chief Minister?

The Hon'ble Mr. H. S. SUHRAWARDY: I don't think so. In fact, I believe that he is not.

Mr. RANAJIT PAL CHOUDHURY: With reference to (*b*) (*ii*), will the Hon'ble Minister be pleased to state what are the improvements, if any, that the Labour Commissioner has effected?

The Hon'ble Mr. H. S. SUHRAWARDY: It is a difficult question and beyond my understanding.

Mr. RANAJIT PAL CHOUDHURY: In the answer it is said that one of the duties assigned to him is "enquiry into the condition of labour and evolving means for betterment." Will the Hon'ble Minister be pleased to state if the Labour Commissioner has effected any improvement?

The Hon'ble Mr. H. S. SUHRAWARDY: Undoubtedly there has been a great improvement in the conditions of labour since, at any rate, this Government took office.

Mr. KADER BAKSH: Mr. Shrish Chandra Chakraverti put a supplementary question enquiring if the Assistant Labour Commissioner is a relation of the Hon'ble Chief Minister. Will the Hon'ble Minister be pleased to state if it would have been illegal or unfair if he had actually been a relation of the Hon'ble Chief Minister?

The Hon'ble Mr. H. S. SUHRAWARDY: I think that would not have made any difference; that would rather have been a qualification. But in my opinion this particular officer is most suitable for the post.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state what are his technical qualifications?

The Hon'ble Mr. H. S. SUHRAWARDY: He is a human being with a human heart and mind.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state if he has any academic qualifications?

The Hon'ble Mr. H. S. SUHRAWARDY: I have never attempted to find out his academic qualifications.

Mr. SHRISH CHANDRA CHAKRAVERTI: Will the Hon'ble Minister be pleased to state if that post was advertised?

The Hon'ble Mr. H. S. SUHRAWARDY: I do not think so.

Mr. SHRISH CHANDRA CHAKRAVERTI: Will the Hon'ble Minister be pleased to state how he comes to the conclusion that he is the best candidate? Has the Hon'ble Minister interviewed any other candidate?

The Hon'ble Mr. H. S. SUHRAWARDY: It is an error to think that he was a candidate. I considered him the most qualified man for the post.

Mr. SHRISH CHANDRA CHAKRAVERTI: Will the Hon'ble Minister be pleased to state how he came to the conclusion that he was the most qualified for the post without testing any other candidate?

The Hon'ble Mr. H. S. SUHRAWARDY: I wanted a man who knew something about labour conditions and who had also sympathy for labour. I knew that this gentleman was quite familiar with labour conditions and I also came to know from various reports that he was specially equipped for this kind of job. He was just the type of man I wanted.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state if he could not get a better man if he had advertised the post?

The Hon'ble Mr. H. S. SUHRAWARDY: I do not think that by advertisement we always get the best man.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if it is not the usual practice to advertise a post like this?

The Hon'ble Mr. H. S. SUHRAWARDY: I am not aware of the practice, since this is the first time that this post has been created.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Will the Hon'ble Minister be pleased to state when was this post created?

The Hon'ble Mr. H. S. SUHRAWARDY: I think this post was created during the last Budget Session—I mean the August-September Session.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Will the Hon'ble Minister be pleased to state if it was done with the sanction of the Cabinet or was it done by the Hon'ble Minister himself?

The Hon'ble Mr. H. S. SUHRAWARDY: The post was sanctioned by the Cabinet and approved by the Legislature. But so far as the appointment of this particular gentleman is concerned, certainly that was a departmental affair.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state what is the pay of this post?

The Hon'ble Mr. H. S. SUHRAWARDY: I do not quite remember it; but if the hon'ble member will please refer to the Budget, he will get the figure. I think it is Rs. 750.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state what was his pay when he was Inspector of Police.

The Hon'ble Mr. H. S. SUHRAWARDY: Well, the hon'ble member who is prompting——

Mr. LALIT CHANDRA DAS: It is not a matter of prompting at all. Even if he had stayed back, I would have asked this very question straight away.

The Hon'ble Mr. H. S. SUHRAWARDY: I can't say that: the hon'ble member who was prompting Mr. Das is related to——

Mr. RANAJIT PAL CHOUDHURY: On a point of order, Sir. Is it fair that the Hon'ble Minister should answer in that manner when questions are meant for eliciting information——

Mr. PRESIDENT: That is not a point of order.

The Hon'ble Mr. H. S. SUHRAWARDY: The pay of that gentleman with all his emoluments was, I think, Rs. 5 or Rs. 10 less than what he is getting at the present moment.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state what was his pay minus the emoluments?

The Hon'ble Mr. H. S. SUHRAWARDY: I am not now in a position to say that. I have calculated his pay with all his emoluments and it is five or ten rupees less than what he is getting now.

Mr. LALIT CHANDRA DAS: What was his pay as Inspector of Police—was it not between Rs. 300 and 350?

The Hon'ble Mr. H. S. SUHRAWARDY: I do not know. The hon'ble member may ask the Home Minister.

Third Session of the National Trade Union Federation.

299. Mr. SHRISH CHANDRA CHAKRAVERTI: (*a*) Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state whether the Government are aware that the third

session of the National Trades Union Federation was held at Calcutta on the 18th and 19th December, 1937, under the presidency of Mr. B. Shiva Rao?

(*b*) Is it a fact that the session was attended by distinguished visitors like Mr. Harold Butler, the Director of International Labour Office, and the Hon'ble Mr. V. V. Giri, Minister for Labour, Madras?

(*c*) Is it a fact that resolutions on recognition of trade unions, amendment of Factories Act, continued disregard of the provisions of Payment of Wages Act with regard to payment of wages were passed and the same were forwarded to the Hon'ble Ministers by the Secretary of the Press Employees' Association?

(*d*) If the answers to (*a*) to (*c*) be in the affirmative, will the Hon'ble Minister be pleased to state what action has been taken or is intended to be taken with regard to (*c*)?

The Hon'ble Mr. H. S. SUHRAWARDY: (*a*) and (*b*) Government are aware that a meeting of the National Trades Union Federation took place in Calcutta last December, but have no information to show who presided and who attended.

(*c*) Yes.

(*d*) The resolutions are under consideration.

Evasions of the Payment of Wages Act and Factories Act by the authorities of the St. Andrews' Press.

300. Mr. SHRISH CHANDRA CHAKRAVERTI: Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state—

(*a*) whether he is aware that Mr. R. H. Parker, I.C.S., Joint Secretary to the Government of Bengal (Department of Commerce and Labour), intimated by a letter, dated the 18th September, 1937, to the Secretary, Press Employees' Association, Calcutta, that concrete cases of evasions of the Factories Act and the Payment of Wages Act should be brought to his notice;

(*b*) whether he is aware that such concrete cases of evasions of the Payment of Wages Act and Factories Act by the authorities of the St. Andrews' Press, at 1, Sun-Yet-Sen Street, Calcutta, were brought to the notice of the Labour Commissioner by the Press Employees' Association, Calcutta, by letters, dated the 13th November, 1937, and the 13th December, 1937;

(*c*) whether he is aware that it was stated in those letters that the authority of the St. Andrews' Press had never paid the wages of the workers before the 20th of the next month although on two occasions the employees were compelled to put their signatures on the pay-sheet on the 7th of those months on threat of dismissal and that their pay for the overtime work for the period from April to December, 1937, has not yet been paid to them; and

(*d*) if so, whether the Chief Inspector of Factories took any steps against the authority of the said press as contemplated in the Payment of Wages Act; if not, why not?

The Hon'ble Mr. H. S. SUHRAWARDY: (*a*) Yes.

(*b*) A letter of complaint, dated the 11th November, 1937, from the Press Employees' Association against the Superintendent of the St. Andrews' Press was received by the Labour Commissioner.

(*c*) The letter stated that all the workers of the St. Andrews' Press were coerced to sign the pay-sheet on the 7th of the month but their wages were actually paid on the 25th and that the overtime pay of the workers from April to September had not been paid.

(*d*) The Chief Inspector of Factories had the press inspected on the 22nd November, 1937, and no evidence of breach of the provisions of Payment of Wages Act could be found. The Chief Inspector of Factories referred the matter to the authority under the Payment of Wages Act who discussed it with the General Secretary of the Association on the 29th November, 1937, and suggested the filing of regular applications under section 15 (*3*) of the Act. The authority also wrote officially to the General Secretary making the same suggestion on the 3rd January, 1938, but so far no applications have been filed.

Workers of the Calcutta University Press.

301. Dr. ARABINDA BARUA (on behalf of Mr. K. C. Roy Chowdhury): Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state—

(*a*) whether it is a fact that about a hundred workers of the Calcutta University Press made a representation of their grievances and submitted a memorial to him on the 1st August, 1937;

(*b*) whether it is a fact that he gave a very patient hearing to them and took down the names of some workers and assured them that he would personally visit the press and make an enquiry into their grievances; and

(c) if the answer to the last question be in the affirmative, whether he made any such enquiry and, if so, with what result; if not, why not?

The Hon'ble Mr. H. S. SUHRAWARDY: (a) I received a deputation and a memorial was submitted to me.

(b) After hearing the deputation I assured them that the matter would be looked into.

(c) The Labour Commissioner had a discussion with the University authorities in connection with the memorial. A Committee of the Senate of the University presided over by the Vice-Chancellor was considering the question of the conditions of press labour, and it was considered inadvisable to interfere at that stage. On a reference being made to the University, the Registrar has intimated that the Committee has not yet concluded its deliberations. I am thinking what further steps I can take to deal with their grievances at an early date.

The Calcutta Electric Supply Corporation, Limited.

302. Mr. LALIT CHANDRA DAS (on behalf of Mr. Narendra Chandra Datta): Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state—

(a) whether the Calcutta Electric Supply Corporation, Limited, is incorporated in England or in India;

(b) whether the shareholders of the said Company are almost all non-Indians;

(c) what is the public interest which had led the Government to refuse sanction to the Calcutta Corporation to purchase the local undertaking of the Calcutta Electric Supply Corporation, Limited, within the area of the Corporation of Calcutta;

(d) whether the interest of the Calcutta Corporation and its ratepayers form an important part of the public interest as mentioned in the letter of the Government, dated the 29th January, 1938;

(e) if not, what are the important aspects of public interest mentioned in the letter referred to above;

(f) whether it is a fact that the Calcutta Corporation could make very substantial annual savings and the ratepayers could pay at a lower rate than at present if the Corporation proposal for replacing the present Electric Supply Company was accepted; and

(g) whether it is a fact that the public interest mentioned in the letter means and includes only the interest of the Calcutta

Electric Supply Corporation, Limited, and of other companies and firms outside the jurisdiction of the Calcutta Corporation which get their power from the Calcutta Electric Supply Corporation, Limited?

The Hon'ble Mr. H. S. SUHRAWARDY: (*a*) In England.

(*b*) The information is not available.

(*c*) The public interest referred to in this Government letter No. 1022-Com., dated the 29th January, 1938, to the Calcutta Corporation, means the interests and welfare of the people of Bengal, as well as of those who are supplied with electricity by the Calcutta Electric Supply Corporation, Limited.

(*d*) Yes.

(*e*) Does not arise in view of the reply to (*d*).

(*f*) Government have no facts and figures to prove that the Calcutta Corporation would make substantial annual savings and the rate-payers would pay a lower rate per unit of electricity consumed, if the Calcutta Corporation purchased the Calcutta Electric Licence. Examination of the whole matter proves quite the contrary.

(*g*) No.

Electrical Advisers and Electric Inspectors under the Government of Bengal.

303. Mr. LALIT CHANDRA DAS (on behalf of Mr. Narendra Chandra Datta): Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state—

(*a*) how many Electrical Advisers and Electric Inspectors there are under the Government of Bengal;

(*b*) what are the rules of recruitment of these officers;

(*c*) whether they are recruited through the Public Service Commission;

(*d*) what is their scale of pay;

(*e*) whether they are paid any fees for their inspection in addition to their salary; and

(*f*) if so, what was the amount obtained by each of the Electric Inspectors during the year 1936-37?

The Hon'ble Mr. H. S. SUHRAWARDY: (*a*) One Electrical Adviser, five Electric Inspectors and two Assistant Electric Inspectors.

(*b*) The posts of Electrical Adviser and Electric Inspectors being of highly specialist nature, were not included in any recruitment rules.

It is proposed to include them in Bengal General Service Recruitment Rules which will be published shortly.

(*c*) The present incumbents of the posts of Electrical Adviser and Electric Inspectors were recruited before the Public Service Commission came into being on the introduction of the New Constitution in April, 1937. In future, however, officers for those posts will be recruited through the Commission.

(*d*) The scale of pay of the post of Electrical Adviser and Chief Electric Inspector is Rs. 600—50/2—1,000. The scale of pay of the post of one Electric Inspector is Rs. 275—25/2—350—50/2—750. The scale of pay of four Electric Inspectors is Rs. 250—25/2—400—50/2—500. The scale of pay of two Assistant Electric Inspectors is Rs. 150—10—250.

(*e*) No.

(*f*) Does not arise.

REPORT OF THE PRIVILEGE COMMITTEE.

Dignity of the Chair.

Mr. PRESIDENT: Now the Deputy President is to present the report of the Privilege Committee.

Mr. HAMIDUL HUQ CHOWDHURY: I beg to present the report of the Privilege Committee and to move that it be accepted:

"The Committee has considered the comment which appeared in the town edition of the *Amrita Bazar Patrika* on the 26th March, 1938, and recommend that no further action need be taken."

Mr. PRESIDENT: Motion moved that the following report of the Privilege Committee be accepted: "The Committee has considered the comment which appeared in the town edition of the *Amrita Bazar Patrika* on the 26th March, 1938, and recommend that no further action need be taken."

Khan Sahib ABDUL HAMID CHOWDHURY: May I move an amendment?

Mr. PRESIDENT: Yes.

Khan Sahib ABDUL HAMID CHOWDHURY: Sir, the amendment which I beg to move runs as follows: "That the editorial comment of the *Amrita Bazar Patrika*, dated the 26th March, 1938, is an indirect

insinuation against the President for his ruling, which is reprehensible and deserves severe condemation of the House."

Sir, in moving this amendment I beg to state that the Privilege Committee has failed to discharge its duties. Very few members attended and they did not care even to enquire of the editor of the paper about the comments that he so recklessly made on the conduct of the Chair. Veiled insinuations and suggestions are more reprehensible than direct charges. This paper has already earned a notoriety in casting reflections and ascribing motives to the conduct of the Chair. Its representatives are banned in the Central Legislative Assembly from attending its sittings, because of its serious and unjustifiable comments on the conduct of no less a personality than the Hon'ble Sir Abdur Rahim about his ruling on the question of freedom of speech of the members of Legislature, and they had not the ordinary courtesy to withdraw their remarks and apologise to the Chair in spite of warning from the President of the Central Legislature. The Hindu Press is against the Muslim Ministry and anything that helps in any way the Muslim Ministers, whether right or wrong, is anathema to these communal papers. In the eagerness to placate the exasperated orthodox members of their community, they have not hesitated to violate all principles of justice and truth.

Mr. BANKIM CHANDRA DATTA: On a point of order, Sir. Is it relevant to bring in communal question in a matter like this?

Mr. PRESIDENT: It is not a point of order.

Mr. SHRISH CHANDRA CHAKRAVERTI: Khan Sahib Abdul Hamid Chowdhury is a signatory to the report of this Committee and he has not signed any note of dissent, and as such, is he entitled to move any amendment to that?

Mr. PRESIDENT: Yes, he is entitled to move an amendment.

Khan Sahib ABDUL HAMID CHOWDHURY: They have not the ability to properly criticise and make their comments on a really learned discourse like your ruling. I understand one Mr. Mahitosh Roy Chaudhury, a hireling of the paper, at the inspiration of a big Congress leader, has contributed this comment in the *Amrita Bazar Patrika*, and the same big Congress leader for whom no means are too low, had advised the vernacular rags to do the same.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: On a point of order, Sir. What is the effect of the amendment which has been moved?

Mr. PRESIDENT: Will you kindly state your point of order?

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: My point is that the amendment that has been moved is of negative effect and, therefore, it cannot be an amendment of a substantive motion.

Mr. PRESIDENT: I hold that it is in order.

Mr. LALIT CHANDRA DAS: Is he entitled to make any insinuation like that?

Mr. PRESIDENT: If he does not yield, you cannot put any question.

Khan Sahib ABDUL HAMID CHOWDHURY: The conduct of these people are actuated by nothing but mean motives which have vitiated the public life of Bengal. These people have now entered the sacred precincts of the Legislature and do not hesitate to lower the dignity and prestige of this august House; it is, therefore, necessary to condemn them unreservedly. I understand that it will be necessary for the Government to initiate legislation to punish these miscreants, as under the Government of India Act, 1935, this House, unlike the British Parliament, has no right to check the mischievous activities of all these miscreants when they deliberately traduce the good name of the Legislature. With these few words, Sir, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved that "the editorial comment of the *Amrita Bazar Patrika*, dated the 26th March, 1938, is an indirect insinuation against the President for his ruling, which is reprehensible and deserves severe condemnation of the House."

Mr. HUMAYUN KABIR: What will be the effect of this amendment if carried? What will be the form of the resolution if amended?

Mr. PRESIDENT: The amendment will be put to vote and the resolution also will be put to vote.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: May I draw your attention to section 44 (*2*) of the Rules and Standing Orders where it is said that an amendment may not be moved which has merely the effect of a negative motion?

Mr. NAZIRUDDIN AHMAD: I submit that it has not a mere negative effect.

Mr. PRESIDENT: The amendment is quite different. It is not a direct negation. I hold that it is quite in order.

Mr. NAZIRUDDIN AHMAD: Sir, unfortunately I find it my duty to oppose the original motion moved by the Deputy President and to support the amendment, moved by Khan Sahib Abdul Hamid Chowdhury, one of the members of the Privilege Committee. It is distressing to find that the Privilege Committee has given no reason whatsoever why it has recommended complete inaction on the part of the House. The report is significantly laconic and dangerously economical in its expression. The House was, in all fairness, entitled to know what they thought of the article. I think, however, on a reading of the article which is before me that it is clearly and deliberately offensive. May I with your permission read the article, Sir?

The article reads thus: "The President of the Bengal Legislative Council has laid the Bengal Ministry under a deep debt of gratitude. He virtually abdicated his function as Chairman and instead of giving a ruling on the point raised by Mr. Humayun Kabir as regards the Bengal Expiring Laws Bill, left the matter to be decided by the vote of the House, where Government has a solid majority. The result is that the Bill has been passed and the Ministry has got just what it wanted. We regret that Mr. Mitter did not choose to exercise his undoubted right in this matter. True, there was no precedent for his guidance, but he forgot that he was there to create a precedent if necessary. We regret to confess that he has disappointed us."

Sir, this is the tone in which the article has been written. In judging whether it offends against the privilege of the Chair or of the House, it seems to me that we have to carefully analyse the article. The first point mentioned in the article is that "the President has laid the Bengal Ministry under a deep debt of gratitude." I believe the insinuation is absolutely clear. The next point is that "he has *abdicated*." The word "abdicated" is highly offensive. The next is that "he left the matter to be decided by the vote of the House, where Government has a solid majority," and then "the result is that the Ministry has got *just what it wanted*." The insinuation is transparently visible. The next point is: "He did not *choose* to exercise his undoubted right." I beg to draw your attention to the expression "he did not *choose*" implying deliberate intention—then, again, to the expression "he *forgot* that he ought to create a precedent." The word "forgot" is highly offensive and then it "regrets to confess that he has *disappointed* us."

The article is a clear attempt to lower the Chair in public estimation while concealing behind indirect language. In order to bring out the real meaning of the article I will re-state the points in their proper and logical sequence. You will then be pleased to find that

the insinuations stand out prominently in their ghastly nakedness. I shall re-state the points in this way. The Ministry wanted a particular ruling. The President had a right to decide it for himself, but he did not choose to exercise it. He forgot to create a precedent and he abdicated. The Government have a solid majority in the House and he left it to that House to decide. The Ministry got just what it wanted, and he has laid the Ministry under a deep debt of gratitude and the ruling has disappointed the writer. I submit that the obvious implication of the article is just this: that the Ministry needed a particular ruling; that there was, therefore, a demand from the Ministry for the ruling and the supply came from the President exactly in accordance with the demand and the affair had been arranged between the Ministry and the President and the ruling was given with that particular object in view and he has thereby laid the Ministry under a deep debt of gratitude and the whole business was disappointing. You would, therefore, see that the ideas were arranged just to avoid the Penal Code and the rules relating to the privileges of the Chair and the House.

So far, Sir, as this paper is concerned, it has a unique record in dangerous insinuations of this kind. In 1913, this paper wrote a series of articles in connection with the Barisal Conspiracy Case which was then pending. The language was similar to this and the Governor of Bengal in Council brought the matter to the notice of the High Court and contempt proceedings were instituted against Babu Matilal Ghosh, the then editor. A Special Bench sat over it and the editor got off on technical grounds, namely, that there was no legal evidence to show that he was the editor on the days in question. Not being content with this, the paper defamed the Hon'ble Judges of the Hon'ble High Court in 1917 while pretending merely to criticise them and even to admire them for their impartiality. There were contempt proceedings and the editor again got off exactly on the same ground that it had not been proved that Babu Matilal Ghosh, the then editor, was the editor on the relevant days. On both these occasions the celebrated Mr. Jackson appeared for the paper. On both the occasions the articles were severely condemned. On the second occasion the printer was punished for contempt. Again in the year 1935 the paper committed contempt of the Hon'ble Judges of the High Court and the editor was prosecuted again. This time Sir Tej Bahadur Sapru was engaged, who contended that no contempt was meant, but the article was held to be highly objectionable and amounted to contempt of court. On each occasion there was a pretence of fairness, but the articles consisted of the most dangerous suggestions and oblique hints. This paper, therefore, is a past master in the art of defaming high authorities behind ambiguous language. One could understand a direct allegation—a direct challenge of the impartiality of the President; that would have been less unfair and less mischievous. But I

submit that insinuations of this type are really more mischievous than plain allegations. I venture to submit without disrespect that the dignity of the Chair, though a matter for the gravest concern to him, is not a matter for him alone; it is the property of the whole House too, because I submit that the dignity of the Chair is co-extensive with the sum-total of the dignity of the members of the House. It concerns the dignity and self-respect of the entire House of which the Chair is the accredited and respected mouthpiece. When a journal has the audacity to severely criticise and in a most unbecoming fashion insinuate against the impartiality of the Chair, it is the plain and obvious duty of every member of this House to rise to a man in protest. I have, therefore, decided to invite the members on the other side,—the Congress and every other section of this hon'ble House—to forget their party predilections, to cut across party barriers in this House and stand united on this occasion and protest against the offending article. I believe the implications are simple and clear. We cannot read this article and sit down quiet without uttering a word of protest, and I submit that the amendment proposed by Khan Sahib Abdul Hamid Chowdhury should be accepted by every one of us without any dissentient voice and we should thereby express our severe and united condemnation against the insinuations.

Mr. D. H. WILMER: Sir, I wish to oppose this amendment on the general ground that the House appointed this Committee to investigate into the matter. Having done that, I submit that this House should loyally adopt the report of its own Committee.

The Hon'ble Mr. H. S. SUHRAWARDY: Why?

Mr. PRESIDENT: Does this observation of yours apply to reports of the Select Committees as well? Is that your argument? A Select Committee is also a Committee appointed by this House and on this ground it will no doubt be extraordinary to accept all their reports! Of course there may be good reasons to accept them and in this connection also this report may be accepted, but the general argument is not sound. It does not preclude the House from throwing out a report of the Select Committee.

Mr. D. H. WILMER: With due respect I beg to submit that there is a difference between a Select Comimttee dealing with a Bill and a Committee appointed to investigate into a question of fact which is certainly within the power of the House to do.

Mr. PRESIDENT: Mr. Deputy President, will you please let me know what steps you took in the Privilege Committee to ascertain the truth of this matter? Did you enquire of the editor or of anybody else?

Mr. DEPUTY PRESIDENT (Mr. Hamidul Huq Chowdhury): Sir, if I am permitted to explain what happened in the Privilege Committee, I may inform the House that what I suggested to the members of the Committee was that if they were of the mind that action was called for by the comments made by the paper, then it would be fair to the paper itself that we should hear it and that there should be no *ex-parte* decision against it. We, as members of the House, are very jealous of our privilege and we are fully entitled to decide ourselves what should be done in the matter. Therefore, it would be only fair to hear the editor, and the consensus of opinion in the Committee was that as the comments called for no action it was not necessary to demand an explanation from the editor. That being the case, all the members agreed to sign the report and there was no difference of opinion.

Mr. KADER BAKSH: I would only like to say a few words in order to refute the assertion of Mr. Wilmer. Mr. Wilmer should know that it is a question of construction and as such it is a question of law; it is not merely a question of fact. Now, as the wording in the sentences goes one after another, we have to read between the lines.

Sir, I was present as a member at the meeting of the Privilege Committee, and if I am permitted to say what took place in the Committee, then I can give out something. But I think the proceedings of the Committee are not to be disclosed here——

Mr. PRESIDENT: The proceedings of the Privilege Committee are not confidential.

Mr. KADER BAKSH: In that case, Sir, I may tell the House that I did not join issue with the decision of the Committee, and when I signed my name, I put an asterisk against it, thereby showing that I did not agree with the decision of the Committee——

Mr. LALIT CHANDRA DAS: But did you put in your note of dissent?

Mr. KADER BAKSH: No, I did not, but I put an asterisk against my name, indicating that I was not in agreement with the decision of the Committee——

Mr. HAMIDUL HUQ CHOWDHURY: On a point of explanation, Sir. I submit that Mr. Kader Baksh did not say that he was going to disagree with the views of the Committee nor was there any question of submitting a note of dissent by any member. Had it been so, it would certainly have been mentioned.

Mr. KADER BAKSH: Yes, Sir. I rose up and wanted to put a legal interpretation to the wordings of this article. And then my friend said, "You need not argue like a pleader". But after all I am a pleader, and I cannot forget it, and I wanted to put a legal interpretation to the wordings. I said, "The intention has to be gathered from the whole document, as in a constitutional document we have to look into the law points. The intention of this particular gentleman has to be gathered from the entire passage." Now, the article has been written in such a way as to evade the consequence that might attend on him. It is a very ingenious report, but the intention is very clear and it is defamatory, because it only wants to show to the world outside that in collusion with the Ministry the President gave this ruling and thereby put them under a deep debt of gratitude. That is the plain meaning. Again, Sir, I would appeal to my friends of the Congress Group that because it is a Congress paper.....(Question!) You may question my statement, but it is true that this paper is backed by the Congress, and whatever the *Amrita Bazar Patrika* says, has the support of the Congress party. I would, therefore, appeal to them to think that any Ministry and any Government is one of the people. It is not only the Congress Government which is popular but also a non-Congress Government. They have also to think about the dignity of the House, though we have not got a Congress Ministry——

Rai KESHAB CHANDRA BANERJEE Bahadur: What has the question of Ministry got to do with the point at issue?

Mr. KADER BAKSH: Because the Ministry has been brought in, namely, that "the Ministry has been put under a deep debt of gratitude". The *Amrita Bazar Patrika* says that the President in order to please the Ministry and in order to dance to the tune of the Ministry, did give a ruling like this. That is the whole implication. It means that as the Ministry has got the majority in the House, whatever would be put to the House, would be passed.

Mr. HUMAYUN KABIR: Mr. President, Sir, I was not present at this meeting of the Privilege Committee. Therefore, I am not in a position to say what happened there. But in view of the expression of opinion of certain sections of the House that the Privilege Committee did not examine evidence on the question at issue, I would suggest the following amendment for the consideration of this House, viz., that the question be re-referred to the Privilege Committee to re-examine it and to report by the 2nd April, 1938.

The reasons for this amendment are quite plain. Since the question has been raised on the floor of the House that the decision recommended by the Privilege Committee was taken without examining witness,

it stands to reason that we should not commit ourselves to the acceptance of the decision of the Privilege Committee without further consideration. But that very consideration is also at the same time a fresh ground why no amendment of the form that has been moved by my hon'ble friend Khan Sahib Abdul Hamid Chowdhury should be accepted by this House. If the House is not prepared to accept the decision of the Privilege Committee, because no evidence was adduced before the Committee, that in itself proves why we should not also condemn the editor of the paper till he has been heard. I do not want to enter into the merits of the question, and I do not want to comment on the *bona fides* of the paper. Every paper in Bengal, if the question be raised, may be subjected to criticism from time to time, indeed, it is one of the general grievances that in Bengal the tone of journalistic criticism often leaves much room for improvement. But that is not the point we are considering here. The point is whether this particular article of that particular paper was or was not an insinuation upon the conduct of the President; and that cannot be finally decided one way or the other till the paper is heard and more evidence is taken. With these words, Sir, I move that the matter be referred back to the Committee of Privilege with instruction to submit its report by the 2nd April, 1938.

Mr. PRESIDENT: A further amendment moved that the report be sent back to the Privilege Committee for further examination.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Mr. President, Sir, it is not without hesitation that I rise to take part in this debate. It is really a very delicate ground on which we are called upon to tread. I need not perhaps say that no one in this House is more jealous of the dignity of this House and of the prestige of the great office which you, Sir, hold and that so admirably. We have the greatest possible respect for you and for your position; but, at the same time, as a member of the Privilege Committee, I think it is my duty to support the report which has been presented to this House. I might say that I moved the resolution of the Privilege Committee and it was unanimously adopted. It was really a surprise to me that a member of the Privilege Committee thought fit to bring forward an amendment to that resolution, couched in a language which creates the impression that the Committee failed in its duty and committed a great blunder. I should like to say, and that very emphatically, that I strongly repudiate the remarks which have fallen from the lips of the mover of the amendment and of the speakers who have preceded me with reference to the conduct and policy of one of the best daily papers in Calcutta. It will be admitted on all hands that the *Amrita Bazar Patrika* has built up its reputation by services the value of which can hardly be questioned. Be that as it may, I am

sure that the editor of that paper, if he happens to be writer of the paragraph in question is above meanness and could never have intended to cast any reflection upon the conduct of the Chair. It may be that he did not support or approve the ruling that you, Sir, gave on a particular occasion. It is quite possible, that he did not see eye to eye with you; but it could not be his intention, I submit, to cast any reflection upon your conduct. For, we all know and the public is perhaps also aware that your independence has not been questioned by any member of this House. (Hear! Hear!!) I can say without any fear of contradiction that you have transacted the business of your office and discharged your onerous duties in a manner which left no doubt in our mind as to your determination to exercise your functions courageously and faithfully; but, to err is human. If you have erred on a particular occasion, the editor of a paper would be within his right to offer fair and honest criticisms with reference to your action as it is certainly a matter of public interest. I have again very carefully weighed in the balance the editorial paragraph in question. I feel that I was right when I told the Committee of Privilege, last night, that the writer thereof in reality made a reference not to your intention but to the effect which your decision produced. It is said that you laid the Ministry under obligation by what you did. That was clearly a reference to the effect which your action produced.

Mr. NAZIRUDDIN AHMAD: It does refer to the intention.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: It does not. There is no suggestion that there was any sort of understanding between the Ministry and the Chair or that the Chair was unduly influenced by the Ministry and that the President's ruling was inspired.

Mr. NAZIRUDDIN AHMAD: They are too clever for it.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Whatever my friends may say, I am decidedly of opinion that my reading of the paragraph was correct.

Mr. PRESIDENT: Order, order. There should be no interruption.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I am very thankful to you, Sir, for the protection you have given to me against interruptions. Let me repeat that I am definitely of opinion that the reference was not to the intention of the Hon'ble President, but to the effect which his ruling produced.

And then, what about another leading paper of this city? The *Statesman* has practically said the same thing.

Some members: No, no.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: It has.

Mr. NAZIRUDDIN AHMAD: I have the paper here with me.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: May be, but I have read it myself. It may be that the language of the *Statesman* was more diplomatic, but its conclusion was the same. That paper also said that if the President had no precedent to guide him, it was clearly his duty to have created a precedent. Well, this is advising the President. The advice, however, was not wanted. The President can get on without such advice from editors of newspapers. But at the same time, editors have got to discharge certain duties within their own sphere of activities. They are also servants of the public. If a particular action of the President according to the light in them appears to be unwholesome, undesirable or wrong, I think it will be in their competence to criticise that action. I would not mind it. If I found the remarks of the *Patrika* purely personal and offered with the motive of insulting our President, I would have been the first person to condemn that paper. But the reference was, as I felt and still feel and feel more strongly as I think more and more about the matter, to the effect which the President's action produced, and not to his intention.

Besides, I think it is not desirable that a member of the Privilege Committee would agree to draw up a report in a particular manner and then on the next morning go against that report! Well, if he chooses to do so, we cannot help it. But, I think that in the interest of discipline, in the interest of decorum, efficiency and perfect team-work a member of a Committee should not move any drastic amendment to a report of that body which was unanimously drawn up and that with his consent. It should have been left to somebody else. But that is neither here nor there.

Before I conclude, I think it is my duty to warn the House that it will be a serious mistake if the suggestion of Mr. Kabir is accepted and the editor of the *Amrita Bazar Patrika* is actually called upon to appear before the Committee to submit an explanation. What right have we to summon him? If we do so we will surely be courting a disaster—we will certainly be making matters worse. I would, Sir, request you most humbly to ignore the matter and take no further action.

Mr. HUMAYUN KABIR: That is not a part of my amendment.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: But the point is, we cannot call him. He may not obey

our summons. We will be going beyond our rights, beyond our jurisdiction. When we are able to codify our privileges by legislation and if one of the privileges thus codified enables us to summon people to appear before us, then of course we shall be able to do so. At present we are not armed with any authority to summon the editor of a newspaper to appear before us to explain his conduct. On the other hand, I do believe, knowing the man that I do, that it is impossible for the editor of the *Patrika* to cast any reflection upon our Hon'ble President. The reference, I again submit, was to the effect of his action and not to his intention.

Khan Sahib ABDUL HAMID CHOWDHURY: Sir, may I speak a word or two by way of explaining my position?

Mr. PRESIDENT: I think after you hear me, it may not be necessary for any other member to speak.

I generally agree with the suggestion that has been made by the Maharaja of Santosh. It is true, as Khan Sahib Abdul Hamid Chowdhury has said, that "veiled insinuations and suggestions are more reprehensible than direct charges", and it is also true that any reflection on the Chair is really a question of breach of the privileges of the House. The Chair as such, is nothing but it represents the dignity and honour of the House. Such reflection on the Chair is a question of the violation of the privileges of the House as a whole, and cannot mean anything particularly against the occupant of the Chair. May has definitely stated in his book, "The reflection on the character of the Speaker, and accusations of partiality in the discharge of his duty, have been treated severely by the House", but in the present case it must first of all be decided whether there was any real insinuation against the Chair or not. If one in the position of the Maharaja of Santosh, after carefully reading the article and knowing intimately the editor, holds that it was impossible for the editor to insinuate against the Chair,—there are other eminent members who on the other hand hold the view that the article in question was a veiled insinuation,—all that I can say is, that it is a question which is not altogether free from doubts. As I said before, it is very difficult to say whether the veiled insinuation was deliberately made against the Chair or not in the article in question, as the editors are no better than laymen when they have to deal with such a subject matter of a highly technical character as was contained in my previous ruling. Then as regards precedents, I can quote any number of them. Just now I came across a remark of one of the Presidents of the Central Legislative Assembly. The Speaker, Mr. S. Shanmukham Chetty says, "it is entirely for the Chair to decide whether particular amendments are permissible or not. But it is quite open in a doubtful case to say that he (the Speaker) will take the decision of the House". But

there are hundreds of cases where the Speaker left the decision on various points to the House, because constitutionally speaking, where the Speaker or the Presiding Officer gets into doubt, he refers the matter to the House. Marriot has said, "he is the servant and master of the House". So all questions must go to the House when there is any doubt arising in the minds of the presiding officers, as he derives his authority from the House itself. So long as I hold this great office, I shall consider it my duty to place before the House, whatever may be the views of others, including the editors of newspapers and I shall always bow down to the decision of the House in all such doubtful cases. I would, therefore, suggest that there need be no further discussions on this question and I would now advise both the mover of the motion as well as the movers of the amendments to withdraw their motions.

Mr. HUMAYUN KABIR: I beg leave of the House to withdraw the amendment standing in my name.

Khan Sahib ABDUL HAMID CHOWDHURY: With due deference to the wishes of the House, I also withdraw my motion.

Mr. NAZIRUDDIN AHMAD: As I supported one amendment, I also beg to withdraw what I said. I believe that the discussions and opinions expressed in the House are sufficient to bring the matter to a close.

Mr. HUMAYUN KABIR: What! to withdraw his speech?

Mr. BANKIM CHANDRA DATTA: Is he entitled to make any speech at this stage? If so, what——

Mr. NAZIRUDDIN AHMAD: It is necessary to hear the speech before it is objected to. I was going to say that the remarks passed in the House and the opinions expressed by the members would be sufficient action in the case, and nothing else.

Mr. PRESIDENT: Mr. Hamidul Huq Chowdhury, I think the original motion may also be withdrawn.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, have I got any authority to withdraw the same? I do not know my own position now. Shall I consult the Committee, I mean the House, if there is any objection?

Mr. PRESIDENT: I shall not allow it and there cannot be any objection to that. I know the procedure, I shall consult the Committee.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I have been directed by the Committee to present this report to the House. Can I withdraw it myself?

Mr. PRESIDENT: You cannot withdraw it. The House alone can give you leave to withdraw it. Is it the pleasure of the House that the original motion and the amendments be withdrawn by their respective movers?

(Then the motion and the amendments were withdrawn by the leave of the House.)

Mr. BANKIM CHANDRA DATTA: Is it not the idea of the House that "to withdraw" means that the entire proceedings should be expunged?

Mr. PRESIDENT: It cannot be done without a formal motion moved and carried in the House.

Mr. BANKIM CHANDRA DATTA: But the matter has now been put to the House in the form of a motion.

Mr. PRESIDENT: Order, order. The procedure is to move afterwards for expunging portions, if the House so desires.

GOVERNMENT BILL.

The Bengal Tenancy (Amendment) Bill, 1938.

Mr. PRESIDENT: The House will now take up discussion of the Bengal Tenancy (Amendment) Bill, 1938. Maulana Akram Khan!

Maulana MUHAMMAD AKRAM KHAN: Sir, I was referring to the report of the Collector of Midnapore. The report runs as follows:—

"As regards money-lenders all the District Officers, except that of Dinajpur, are of opinion that naturally the interests of the money-lenders as a class and with them those cultivators who are money-lenders will be adversely affected.

* * * * * * *

"As regards *bona fide* cultivators, all the Collectors except that of Bakargarj consider that the clause if passed into law will improve the economic condition of *bona fide* cultivators".

Mr. PRESIDENT: In this connection I would like to draw the attention of the Hon'ble Minister that where certain documents or papers are made available to the members in the Select Committee, those papers should also be circulated to the members of this House. That is the general rule. I may quote here a ruling given by the President of the Central Assembly on a similar occasion. "All materials placed by Government before a Select Committee should be made available to the members of the House; in other words, the Committee of the House cannot have any information which cannot be disclosed to the House, as a whole. The House, therefore, has a right to examine all the papers and records which are made available to a Select Committee. Similarly, all evidence tendered before such a Committee, should also be made available to the House. As a matter of fact, for practical convenience, however, the Select Committee may decide what relevant documents and informations which are available to them should necessarily be made available to all the members of the House, so that discussion in the House on the report of the Committee may be complete." For future guidance I direct that with regard to the papers and documents that are made available to a Select Committee, the Select Committee should distinctly say what papers should be made available to the members of the House.

Mr. RANAJIT PAL CHOUDHURY: May we not have them, Sir, for our present guidance?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: If hon'ble members are very keen on having them, Government will be very glad to supply them with those papers.

Mr. NARESH NATH MOOKERJEE: In future or now?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am sorry; it cannot be done immediately.

Mr. PRESIDENT: The question before the House is that in clause 7 of the Bill for the word "twenty-five" wherever it occurs, the word "fifteen" be substituted.

The House divided:—

AYES—30.

Ahamed, Mr. Nur.	Chowdhury, Mr. Hamidul Huq.
Ahmad, Mr. Naziruddin.	Chowdhury, Mr. Humayun Reza.
Ahmed, Mr. Mesbahuddin.	Chowdhury, Mr. Rezzaqui Haider.
Baksh, Mr. Kadar.	Cohen, Mr. D. J.
Barua, Dr. Arabinda.	D'Rozario, Mrs. K.
Chaudhury, Mr. Moazzamali.	Esmail, Khwaja Muhammad.
Chowdhury, Khan Sahib Abdul Hamid.	Hossain, Khan Bahadur Saiyed Muazzamuddin.
Chowdhury, Mr. Khorshed Alam.	Hossain, Mr. Mohamed.

Huq, Mr. Syed Muhammad Ghaziul.
Ibrahim, Khan Bahadur Maulvi Mohammad.
Kabir, Mr. Humayun.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Khan, Maulana Muhammad Akram.
Momin, Begum Hamida.
Molla, Khan Sahib Sabidali.
Rahman, Khan Bahadur Ataur.
Rahman, Mr. Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Roy, Rai Bahadur Radhica Bhusan.
Roy Chowdhury, Mr. Krishna Chandra.
Shamsuzzoha, Khan Bahadur M.

NOES—16.

Banerjee, Rai Bahadur Keshab Chandra.
Bose, Rai Bahadur Manmatha Nath.
Chakraverti, Mr. Shirish Chandra.
Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Goswami, Mr. Kanai Lal.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Mukherji, Rai Bahadur Satis Chandra.
Pal Choudhury, Mr. Ranajit.
Podder, Mr. H. P.
Ray Chowdhury, Maharaja Sir Manmatha Nath, of Santosh.
Sanyal, Mr. Sachindra Narayan.
Sarker, Rai Sahib Indu Bhusan.
Sen, Rai Sahib Jatindra Mohan.
Singh Roy, Mr. Satiseswar.

The motion was carried.

Mr. HUMAYUN KABIR: Mr. President, Sir, I beg to move that in clause 7 (*2*) of the Bill to the proposed sub-section (*1a*) the following proviso be added at the end, namely:—

> "Provided that any mortgagor of a usufructuary mortgage which is not complete usufructuary mortgage shall get back his land earlier than the time fixed by sub-section (*1a*) on his satisfying the Debt Settlement Board established under the Bengal Agricultural Debtors Act, or Civil Court, of his area, that the aggregate value of the net usufruct of the mortgaged land calculated at a half of the gross produce, will be or has become double of the principal for which the land was mortgaged at an earlier date; and similarly the mortgagee of such a mortgage shall possess the mortgaged land for a longer period than what is fixed by sub-section (*1a*), on his satisfying the Debt Settlement Board or Civil Court, of his area, that a longer period will be necessary for the net aggregate value of the usufruct to be double of the principal."

I submit, Sir, that this is an amendment which is so eminently reasonable that it ought to be accepted by all sections of the House. We have just now decided that in the case of a usufructuary mortgage in fifteen years the debt will automatically cancel itself from the enjoyment of the usufruct. This proviso seeks to add a further proviso to that, because in certain cases it may be that the actual debt will be recovered with interest before fifteen years. In this connection I may remind the House that the Committee which was appointed with Sir John Kerr as Chairman, recommended that nine years should be the period of limitation of all such usufructuary mortgages because

this Committee was of opinion that within this period of nine years, most of these usufructuary debts actually cancelled themselves through the employment of usufruct. Therefore, Sir, this sub-clause seeks to protect those agricultural debtors who have actually paid their debts both in terms of principal and interest before the period of fifteen years has elapsed. And at the same time it seeks to give adequate protection to those creditors whose debts are not actually realised.

If we look to these usufructuary mortgages, we sometimes find that the period mentioned is fifty years, in some cases it is ninety years or even a longer period, and there are cases on record where, I have been told, the period is so long as two thousand years. Now, obviously these cases require special consideration and the purpose of my amendment is to establish such an equitable principle that if the debtor has actually paid his debt, in that case he will be in a position to recover his land before the period of fifteen years, as provided in the other section of this Act. If, on the other hand, the position be such that the debtor has not actually paid what he borrowed from the creditor, the creditor is given the opportunity of proving in a competent court of law that his debt has not been actually paid and therefore he should be given the opportunity of enjoying the usufruct for a longer period to be settled by the court which will repay the loan which he might have advanced to the debtor. This is, therefore, a provision which is of advantage both to the debtor and the creditor.

In many cases, the debt is actually paid within a period of nine or ten years and if we look to the figures of the Banking Enquiry Committee, we find that the average interest in this province is not below 15 per cent. at the very lowest. It is placed even higher by the Banking Enquiry Committee. Even if we take 15 as the percentage of interest, then in a period of ten years 150 per cent. of the capital is actually paid and therefore, in such cases, the debtor will be equitably justified in claiming that his debt should be liquidated at the end of ten years.

On the other hand, in those cases where the period is longer, the presumption would be that a smaller piece of land has been mortgaged and a larger amount of loan has been advanced. In such cases if we give the same period of fifteen years, we are placing the creditor at a real disadvantage and giving an undue advantage to the debtor.

Mr. LALIT CHANDRA DAS: On a point of order, Sir. My point of order is that this amendment is not within the scope of this amending Bill. You have given your ruling in connection with item No. 118 of the list of amendments which was opposed by my friend Mr. Kamini Kumar Dutta. That item refers to "usufructuary mortgage occurring in line 3, the words or mortgage by conditional sale (*kat kabala*) or mortgage that is ostensibly simple but in fact incomplete,

usufructuary mortgage executed in the form of simple mortgage to evade the provisions of the law". That was the motion moved by my friend Mr. Moazzemali Chaudhury and opposed by Mr. Kamini Kumar Dutta. You ruled that out of order. Here Mr. Kabir is dealing with an agricultural debt on incomplete usufructuary mortgage. As a matter of fact the amending Bill deals with complete usufructuary mortgage. He has brought in the question of incomplete usufructuary mortgage; he has also brought in the operation of Agricultural Debtors Act and other things within the purview of his amendment. Therefore, it is out of order and cannot be dealt with in this amending Bill.

Mr. HUMAYUN KABIR: This point of order is really not relevant at all, because in 1(*a*) of sub-clause 2 of clause 7, it is proposed to deal with usufructuary mortgages which are not complete; they are brought under the same law as complete usufructuary mortgage. In this proviso I have suggested that we deal with such usufructuary mortgages as are complete usufructuary mortgages but are brought under the operation of the law relating to complete usufructuary mortgages. The reference of Mr. Das to *kat kabala* is entirely irrelevant because that deals with cases of sale. In my amendment, I have referred to cases of usufructuary mortgages which are not covered by the other sub-clauses of this particular section. So this point of order, I submit, does not arise in the present case.

Now, we in this House should legislate in order to grant relief to the agriculturists, but at the same time we should also see that there should not be any *undue* hardship on any class of the people of the province. We must remember this in connection with this question, particularly since in many cases both the parties of such usufructuary mortgages are agriculturists. We ought so to frame our legislation that the greatest amount of relief is given to both the parties and conditions and principles of equity are maintained between them. If my amendment is carried, then in those cases where the debtor has actually paid his debt before the period of fifteen years, he will get back his land before fifteen years and in the cases of those lands where the creditor has not got back his loan, on his proving it to the satisfaction of a competent court, this amendment will enable him to realise his proper dues. I submit that the amendment which has been proposed by Government is something like a Procrustean Bed, in which, as we all know, a man—tall or short, round or fat—was fitted; if one was too tall, his legs were chopped off and if he was too short, he was pulled and dragged to the length of the bed. If we make the period fifteen years arbitrarily, then that would be the sort of treatment which we would be attempting to apply to the usufructuary mortgages.

If we have a flexible section like the one proposed by me, a debtor may get back his land before fifteen years or, on the other hand, on the creditor satisfying a competent court that he has not got back his due within fifteen years, he may enjoy the usufruct for a longer period. We should allow that amount of flexibility in all cases of dealing between human beings. I, therefore, commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved that in clause 7(2) of the Bill to the proposed sub-section (*1a*) the following proviso be added at the end, namely:—

"Provided that any mortgagor of a usufructuary mortgage which is not complete usufructuary mortgage shall get back his land earlier than the time fixed by sub-section (*1a*) on his satisfying the Debt Settlement Board established under the Bengal Agricultural Debtors Act, or Civil Court, of his area, that the aggregate value of the net usufruct of the mortgaged land calculated at a half of the gross produce, will be or has become double of the principal for which the land was mortgaged at an earlier date; and similarly the mortgagee of such a mortgage shall possess the mortgaged land for a longer period than what is fixed by sub-section (*1a*), on his satisfying the Debt Settlement Board or Civil Court, of his area, that a longer period will be necessary for the net aggregate value of the usufruct to be double of the principal."

Mr. LALIT CHANDRA DAS: As I was submitting, Sir, this amendment of Mr. Humayun Kabir does not come within the scope of the Bill——

Mr. HUMAYUN KABIR: I think, Sir, you have ruled that it is in order.

Mr. PRESIDENT: Yes, I have ruled that it is in order.

Mr. KADER BAKSH: Sir, may I know if the whole amendment has been moved?

Mr. PRESIDENT: Yes, the whole has been moved.

Mr. KADER BAKSH: In that case, may I enquire if the latter portion, namely,—

"similarly the mortgagee of such mortgage shall possess the mortgaged land for a longer period than what is fixed by sub-section (*1a*)" is in order?

Mr. PRESIDENT: It is in order.

Mr. NAZIRUDDIN AHMAD: Sir, I rise to oppose this amendment. The bill-clause as it stands would make the position of the debtor absolutely certain and definite, that is, on the expiry of fifteen years the guillotine rule applies and the debtor automatically gets back his land absolutely free from litigation. But by this amendment the benefits which it is proposed to give to the debtors would be completely taken away. The benefits which are supposed to lie behind this amendment are illusory. It is all very sweet to hear that the debtors would be able to get back their properties earlier than fifteen years with the help of the court. It is again equally nice to hear that the creditor would be able to retain the property by satisfying the court about the earnings. What definiteness and certainty were given by the bill-clause and what benefits were conferred on the debtor thereby are being entirely taken away. It is quite illusory to provide for this questionable remedy. The bill-clause provides for simplicity while this amendment wants to introduce complication and litigation. I submit that it will be impossible to agree to this. The sting of the amendment lies especially in its tail. It allows the creditor to go to court and prove that half of the produce for fifteen years had not paid off his dues. And he would be allowed to retain the property longer. You will be pleased to consider the effect of such a provision in a court of law who can clearly prove what the actual produce was for a period of fifteen years? It is impossible to ascertain that satisfactorily. The remedy is more costly than the so-called benefits. The money-lenders alone will be able to meet the costs of litigation and the debtors will not be able to resist them. So in every case the benefit proposed to be given to the debtor will be more than counterbalanced by the advantages given to the creditors and the amendment will defeat its own purpose as well as the objects of the amending Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. Mr. Naziruddin Ahmad has rightly pointed out that this amendment defeats the very object of the bill-clause. The idea is to give automatic relief to the mortgagor after fifteen years. The moment the fifteen years' time is complete the mortgagor gets back his land free of all encumbrances. Mr. Humayun Kabir's amendment will lead to very great difficulties and complications. First of all, who is going to keep a record of the gross and net produce during the fifteen years? There are periods of droughts and floods, and there are periods of complete and partial failure of crops. So all these facts have got to be proved or disproved before the mortgagor will be in a position to get back his land. Now once you allow a mortgagee to drag the mortgagor to the civil court, he is finished. There will be no earthly chance of his getting back the land and probably in

spite of getting back his land which he has mortgaged, he would lose further property if he had any.

Mr. MOAZZEMALI CHAUDHURY addressed the House in Bengali. The following is the English translation of his speech :—

Mr. President, Sir, I support the amendment moved by my friend Mr. Humayun Kabir. In supporting this amendment I want first of all to point it out to my friends that in my opinion this amendment of Mr. Humayun Kabir is calculated to serve more effectively the object with which this Bengal Tenancy (Amendment) Bill has been introduced. We have fixed a time-limit of fifteen years, but many among the hon'ble members of this House have expressed the opinion that the entire amount consisting of the principal and interests thereon may be cleared off within nine to twelve years, that is, before the expiry of fifteen years. In these circumstances, a great wrong and injustice will be done to the cultivator if a period of fifteen years be fixed. The cultivator should be given a chance. In case he succeeds in proving before a court of law that all the dues were paid off before the expiry of fifteen years, it will not be fair to deprive him of the chance of getting his land back before the said period of fifteen years is over. Similarly, it will not be reasonable to cancel all those deeds in which the period has been fixed at above fifteen years, say fifty, sixty or seventy years and upwards. For, having the best interests of the tenants at heart, we shall find that a large number of deeds are there which have been held by the tenants themselves. There is no gainsaying the fact that deeds are held even by the tenants. In both the classes of individuals, viz., the mortgagees and the mortgagors, there are tenants. Even if the interests of the cultivator alone are taken into consideration, I think, a chance like this should be available. For, a wrong as well as an injustice will be done to the mortgagee, if at the end of fifteen years the return of land were insisted upon in cases where either owing to failure of crops or any other reason, nothing could be realized out of the crops. It is for this reason that everybody should wholeheartedly support the amendment of my hon'ble friend. Perhaps, nobody will deny that among the petitions submitted to this House there are many which have been addressed by those cultivators who have accepted mortgages of land. Hence, in view of the fact that among the raiyats also there are both mortgagors and mortgagees, this amendment should be accepted in the interests of both. Another point has been raised with regard to litigation. Litigations will always take place. We need not be anxious on that score. The zemindar will have to file suits in order to realize rents. One has often to take recourse to legal proceedings for realizing even one's just dues. The time-limit of fifteen years has been discussed. But it is quite possible that the mortgagee may refuse to restore possession of

land upon the expiry of the said time-limit, and litigation may have to be started for the purpose. Hence, it will not do to swerve from the pursuit of one's just demands simply out of fear of litigation. Considering the question in all its bearings, I am of opinion that the amendment of my hon'ble friend Mr. Humayun Kabir should be supported.

Mr. PRESIDENT: The question before the House is that in clause 7(*2*) of the Bill to the proposed sub-section (*1a*) the following proviso be added at the end, namely:—

"Provided that any mortgagor of a usufructuary mortgage which is not complete usufructuary mortgage shall get back his land earlier than the time fixed by sub-section (*1a*) on his satisfying the Debt Settlement Board established under the Bengal Agricultural Debtors Act, or Civil Court, of his area, that the aggregate value of the net usufruct of the mortgaged land calculated at a half of the gross produce, will be or has become double of the principal for which the land was mortgaged at an earlier date; and similarly the mortgagee of such a mortgage shall possess the mortgaged land for a longer period than what is fixed by sub-section (*1a*), on his satisfying the Debt Settlement Board or Civil Court, of his area, that a longer period will be necessary for the net aggregate value of the usufruct to be double of the principal."

The motion was negatived.

Rai SATIS CHANDRA MUKHERJI Bahadur: May I rise on a point of order?

Mr. PRESIDENT: Well, there is nothing before the House now.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I beg to move that in clause 7 (*6*) of the Bill in proposed sub-section (*5*) to section 26G, lines 19 and 20, the words "or to a Revenue Officer" be omitted, and for the words "of the commencement of the said Act" in the penultimate line the words "of passing an order for delivery of possession under sub-section (*5*) by a civil court" be substituted.

Sir, my intention in moving this amendment is that I want to make clear as to the authority which shall deal with matters arising out of this section. Therefore, I want to delete the words "Revenue Officer" and leave the whole thing to civil courts. The next omission that I propose is that instead of the words "of the commencement of the said Act" in the penultimate line the words "of

passing an order for delivery of possession under sub-section (*5*) by a civil court" be substituted. The present amendment is this: if you will read the lines in sub-section (*5*) and sub-section (*6*) towards the end together it will read thus: the mortgagor shall thereupon become entitled to the possession of the mortgaged holding and then he is entitled to ask for such compensation as appears equitable in respect of the period during which the mortgagee retained possession after the date on which the mortgagor became entitled to be restored to the possession of his holding.

It may be that the mortgagor does not want to exercise his right for a long time either on account of his own ignorance or that of the mortgagee and there is no mutual demand and refusal. Supposing after fifteen or twenty years a mortgagor comes across documents and demands delivery of possession, then the effect of this amendment will be that from the date on which the Bill becomes law, the mortgagor will be entitled to compensation with mesne profits until the date on which the demand comes. Then compensation should be payable from the date on which the demand is made or an order is passed by the authority before whom the mortgagor files an application for return of the lands up to the date on which the actual delivery is made —because, as I have been saying there have been a large number of cases in which there has been complete sale. Suppose the seller, who has described himself as the mortgagor, does not take any step whatever, thinking that he has completely parted with his property and has received good value for it; two generation after, his grandson discovers that there is a document lying in his possession which speaks of a transfer in favour of X made by his grandfather, which is described as a mortgage and by virtue of this provision he is entitled to get back the property—and not only to get back the property, but also to get back the usufruct for the whole of the period which may be twenty or thirty years. In that case it will be doing injustice to the man who has purchased the holding and in spite of the fact that he has paid full price for it, he is asked to pay compensation for default on the part of the mortgagor himself in the way that he has not claimed the enforcement of his right given to him under sub-section (*6*), immediately when the Bill has become law or he has become entitled to get back his possession. Therefore, my amendment only seeks to remove the difficulty of creating an incentive to taking advantage of dishonesty, it will also be doing a great injustice to certain persons who should be protected and if the amendment which I have proposed is accepted instead, it will be said that the man will be entitled to compensation from the date on which he demands that the property shall be restored to him. In that view, Sir, I hope the Government will consult their advisers and accept this very reasonable amendment.

Mr. PRESIDENT: Amendment moved that in clause 7 (*6*) of the Bill in proposed sub-section (*5*) to section 26G, lines 19 and 20, the words "or to a Revenue Officer" be omitted, and for the words "of the commencement of the said Act" in the penultimate line the words "of passing an order for delivery of possession under sub-section (*5*) by a civil court" be substituted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. First of all it defeats the object of the amendment, namely, that instead of a cheaper agency, that is, the Revenue Officers, the hon'ble mover suggests that in every case the parties must go to the civil court. The passing of an order of delivery of possession by a civil court means that the mortgagor will have to institute a suit for possession before he can get possession. Instead of this amendment, therefore, I would rather be inclined to accept amendment No. 135 of the list of amendments which stands in the name of Mr. Nur Ahamed, which may have practically the same effect, while, at the same time it will be less expensive and more expeditious. With these few words, I oppose the amendment.

Mr. HAMIDUL HUQ CHOWDHURY: What about the compensation?

Mr. PRESIDENT: The question before the House is that in clause 7(*6*) of the Bill in proposed sub-section (*5*) to section 26G, lines 19 and 20, the words "or to a Revenue Officer" be omitted, and for the words "of the commencement of the said Act" in the penultimate line the words "of passing an order for delivery of possession under sub-section (*5*) by a civil court", is substituted.

The motion was lost.

Mr. NUR AHAMED: Sir, I beg to move that in clause 7 (*6*) to proposed sub-section (*6*) of section 26G, the following words be added, namely:—

> "and shall pass an order restoring the possession of the land mortgaged to the mortgagor and such order shall have the effect of a decree of a civil court."

In proposing this amendment I should like to refer to the language of sub-clause 5 of this clause, viz., that there is a provision for application by a mortgagor to a civil court or to a revenue court if he is not given possession. But in this sub-clause 6 provision has been made for compensation only, and there is nothing, as in sub-clause 5, for passing an order for the release of the holding to the mortgagor. I think, this is important and necessary. I hope this innocent amendment of mine will be accepted by the House.

Mr. PRESIDENT: Amendment moved that in clause 7 (*6*) to proposed sub-section (*6*) of section 26G, the following words be added, namely:—

"and shall pass an order restoring the possession of the land mortgaged to the mortgagor and such order shall have the effect of a decree of a civil court."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I suggest, Sir, just one verbal amendment to the amendment moved by the hon'ble member, viz., that in the place of "shall" the word "may" may be substituted?

Mr. NUR AHAMED: I am prepared to accept the amendment.

Mr. PRESIDENT: The question before the House is that in clause 7(*6*) to proposed sub-section (*6*) of section 26G, the following words be added, namely:—

"and may pass an order restoring the possession of the land mortgaged to the mortgagor and such order shall have the effect of a decree of a Civil Court."

The motion, as amended, was agreed to.

Mr. PRESIDENT: Motion moved that clause 7, as amended, stand part of the Bill.

The motion was agreed to.

Clause 3.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I beg to move that clause 3 of the Bill be omitted.

Sir, of all the unfair, inequitable and revolutionary changes that have been proposed in the land laws of the Bengal Tenancy (Amendment) Bill, 1938, which is on the anvil to-day, none is so extraordinary, so destructive of the time-honoured customs, rights and privileges and, in fact, so expropriatory in its nature as clause 3 of the Bill which wants to repeal the sections 26A to 26J of the existing Tenancy Act. These sections, as everybody knows, have conferred a statutory right on the landlords to a transfer fee or *selami* on the transfer of an occupancy holding by the recognised tenants and invested the immediate landlords with the right of pre-emption. They were introduced by the amending Act of 1928, not by way of bestowing on the landlords any new privilege to the prejudice of the raiyats.

They were something in the nature of a tardy and inadequate compensation paid to them for taking away a part of a most valuable right of proprietorship of the landlords which they have enjoyed for generations and which the British Government had made a solemn vow to respect. The right of transfer which the Act of 1928 gave to the occupancy raiyats was in fact an attack upon the right of absolute ownership of landlords which the latter had exercised from long before the enactment of Regulation I of 1793. The landlords, however, agreed to tolerate this invasion upon their right and recognise the transfers in return for the provision made in the Act for payment to them of a consideration. By this arrangement, the legislators, therefore, protected the proprietary right of the landlords and disarmed the criticism that they were aiming at the infringement of the contractual obligations of the Crown under the Permanent Settlement.

Sir, if these provisions for transfer fee and the right of pre-emption are now taken away which is the object of the clause 3 of the Bill, the landlords will be openly subjected to expropriation without even the faintest justification from the point of law and equity. Sir, one can understand a private member, actuated by sentiments of class hatred, bringing forward a proposal of this nature to penalise the much-abused and much-misunderstood land-owning class. But is there any precedent for a Government which swear by the law as well as the constitution of the land and resent the suggestion of being communistic in its outlook, introducing a legislation to rob without compensation a particular section of the public of a right which the Government is pledged to safeguard?

Sir, the Hon'ble Revenue Minister has eloquently spoken about the adjustment of relations between the landlords and tenants. I yield to none in my anxiety for the promotion of good-will and friendship between these two classes of people in the country. But, Sir, how far will it be possible by an action which is a negation of justice and equity and which will leave a rankling sense of injustice into the minds of the landlords? If the Government think that the raiyats should be allowed to enjoy the right, I, for one, would endorse it. But will the Hon'ble Minister tell me by what code of law he would propose to justify the procedure of robbing Peter to pay Paul, of taking away a most important incidence of the right of ownership of the land on the part of the landlords and that, without paying any compensation for the loss to them?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I just make one request to you, Sir? There is some uncertainty about this clause,—clause 3 of the Bill. May its consideration be postponed to-day?

Mr. PRESIDENT: Only clause 3?

Mr. NAZIRUDDIN AHMAD: I submit it has reference to other clauses 26B, C, D.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: We are only concerned with 26A. We have nothing to do with others.

Mr. PRESIDENT: Do you like to alter it materially?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not want to alter it. There seems to be an impression that the use of clause 26A is no longer necessary, because, it was only to make the transfers after the introduction of the Act of 1928, that this was necessary, and its force is spent now. That is the reading of our experts. So, we want to have that examined.

Mr. PRESIDENT: Let it be formally moved to-day. Raja Bahadur will continue his speech.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Thank you, Sir. None of my esteemed friends can deny that the abolition of the transfer fee and the landlord's right of pre-emption will fundamentally alter the character of the Permanent Settlement.

Sir, it is too late in the day for anybody to contend that the zemindar's right of proprietorship in the land is a myth. Every impartial student of history knows that land in this country belonged to the landlords who could dispose of it by sale, gift and mortgage, subject however, to the sovereign's claim for rent. This was recognised by the British authorities in India as early as in 1788 in Shore's Minute on the Proceedings of the Government in the Revenue Department. As a matter of fact, as Field points out in his famous introduction to the tenure of land in the Bengal Presidency, both the framers of the Patni Regulations and the authors of the Settlement of 1793 proceeded upon the footing that "the zemindars were the actual proprietors of the land and equivocally declared them as such 'in name and upon paper'."

Moreover, in Harrington's Analysis of Bengal Legislation it has been said that "a zemindary being absolute and hereditary property on the condition of paying revenue to Government, a zemindar has possessed the power to alienate, give away or sell his zemindary land and Government has uniformly acknowledged it (vide page 15C of the above book)."

Mr. Shore's view was "rents belong to the sovereign and the land to the zemindar (vide page 275 of the above book)."

"Never", wrote Lord Hastings in his Minute of the 31st December 1819, "was there any measure conceived in a purer spirit of generous humanity and disinterested justice, than the plan for the Permanent Settlement in the Lower Provinces.

"One of the efforts of making the zemindars proprietors and fixing forever the Government demand of revenue was that all other rights in land were so completely effaced that at this present hour it is difficult to find a single vestige of them or to ascertain what they were."

Apart from the question of what history says and what the men of authority had said on the point about fifty or sixty years ago, it is interesting to note what their Lordships held in the Privy Council in a case between myself and Rajeswar Prasad Bhakat reported in the Calcutta Weekly Notes, Volume XXXII, page 27. Their Lordships said, "I take it the framers of the Patni Regulation had the same idea in their minds as the framers of the Settlement of 1793 whereby they recognised and proceeded upon the footing that the zemindars are the actual proprietors of the land."

I say, therefore, the present Government have no legal or moral justification for trying to trespass upon the right of the landlords which their predecessors statutorily recognised and bound themselves to protect by doing away with the provision for landlord's fees. The Crown is under an obligation both by law as well as contract to respect this absolute ownership of the zemindars and cannot curtail their rights without their concurrence.

The two outstanding features provided by payment of landlord's fee are:—(*i*) that it provides statutory recognition of the notice of transfer (Jitendra Nath Ghosh *v.* Monmohan Ghosh, 57 I.A. 214—58 Cal. 301) and (*ii*) that after the payment of the fee the landlord can no longer look to the out-going tenant for payment of the rent (Girish *v.* Khagendra, 13 C.L.J. 615—16 Calcutta Weekly Notes 64). Moreover, it is a noticeable fact that neither the High Court nor the Privy Council has ever commented adversely in any of their numerous decisions on the landlord's fee.

But, Sir, this is not the only ground on which I would emphatically oppose the proposal for the abolition of the landlord's fee. There are also other reasons for which the deletion of the clause 3 is considered by me as fair, just equitable and conducive to the best interests of the raiyats. A fee is ungrudgingly paid for changes of names consequent upon a transfer on the Land Registration office in the Collectorate. It is paid without hesitation for mutation of names in the register of some local bodies and of the limited liability companies. The legal practitioners have to pay fees for the enrolment of their names; the doctors have to pay registration fees also; even *kavirajes* are not exempted

from the fees to have their names registered to the authority. If that be so, why should there be any objection to the landlords charging it on the transfer of a holding and consequent change of names in his "Sherista" which they are legally entitled to refuse to recognise?

Sir, we have been told by the Hon'ble Revenue Minister and the supporters of the present Bill that the amendment proposed by them will confer a benefit upon the raiyats and that therefore, the landlords should not be selfish enough to oppose them even if thereby they have to make any sacrifice. My reply to them is simple and unambiguous. It is our deepest concern and however much I am condemned as a reactionary, I am predicting it with a prophetic vision, that the right of indiscriminate and unrestricted transfer which the amendments propose to bestow on the tenants by abolition of the provisions of landlord's fees will, in the long run, bring about the ruin of the tenancy in Bengal.

The objection to pay *selami* to the landlords is, therefore, calculated not to harm but to benefit the tenants. It will operate as some sort of check on the tendency of the weak and ignorant tenants to part with their lands and prevent all agricultural lands from ultimately passing out of the hands of the raiyats to non-agriculturists. I ask the supporters of the present clause if that will be conducive to the welfare of the tenants for which they are professing unending solicitude. If that be so, I for one would extend to it my whole-hearted support. But as I think it will ruin the tenants in the long run—in no time they will be reduced to the position of day-labourer—I cannot but oppose the Government's proposal. If you would scrutinize the number of transfers that have taken place since 1929, you will find that out of a hundred cases, ninety cases have been transferred to non-agriculturists and *mahajans*, and out of the remaining ten cases, nine have been transferred to tenure-holders. At the present time there has been a restriction by way of *selami* at the rate of 20 per cent. and this is the result. One can well imagine the consequence of this, if the restriction be withdrawn. The tillers of the soil or who are better known as *chasi-praja* will be swept away, and will be extinct in no time. It is for this reason that I oppose the clause. If the proposed clause be retained, it will be for the benefit of the tenure-holders and not for the cultivators.

The right way to tackle this problem is by different ways. I am, with your permission, Sir, making a few suggestions by which the difficulty can be solved. Firstly, if the House is of opinion that 20 per cent. of *selami* is too high for the tenants, it can be reduced by lowering the percentage. Secondly, if the House thinks that the *selami* should be abolished, it can be secured by providing compensation to the zemindars. Thirdly, if it be felt difficult to solve this intricate problem at this present moment, it can be

referred to the proposed Commission of Land Revenue for their decision. Meanwhile the proposed clause may be kept in abeyance for their judgment. I understand the Commission will be appointed very shortly and will have their decision in the course of a few months. So it will not be too much for any class of people to wait for a few months only. Lastly, if these suggestions fail to prove convincing, and the landlord's fee is to be abolished, I would propose the revival of the non-transferability of occupancy holdings, as they existed before the legislation of 1928, inasmuch as, such an alternative would serve as a brake on hasty and irregular transfers.

In conclusion, let me once again signal a note of warning to my hon'ble colleagues who are supporters of this clause, that they, by their own action, will crush the peasantry and that they are fighting a wrong battle.

Mr. PRESIDENT: Motion moved that clause 3 of the Bill be omitted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I want to cut short the discussion on this clause by just pointing out that clause 3 of the Bill suggests repeal of section 26A of the Act. Section 26A of the Act was necessary immediately after the introduction of the Act of 1928 when the right of transfer was conferred on occupancy raiyats; this section is no longer necessary. It was necessary at the commencement; its force has now been spent up. That is why we are suggesting its repeal. The speech that has been delivered by Raja Bahadur of Nashipur would have been quite relevant on clause 4 of the Bill and not on clause 3.

Mr. PRESIDENT: The question before the House is that clause 3 of the Bill be omitted.

The motion was lost.

Mr. PRESIDENT: The question before the House is that clause 3 form part of the Bill.

The motion was carried.

Clause 4.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, I beg to move that clause 4 of the Bill be omitted.

It seems to me that the cooling system of the House has exercised its influence on certain members, particularly on my friend Mr. Kader Baksh. I do not wish to disturb their peace. I would simply move it formally for their consideration.

Mr. PRESIDENT: Motion moved that clause 4 of the Bill be omitted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I formally oppose it.

Mr. PRESIDENT: The question before the House is that clause 4 of the Bill be omitted.

The motion was lost.

Rai KESHAB CHANDRA BANERJEE Bahadur: I beg to move that for clause 4 of the Bill the following be substituted:—

"4. To section 26C of the said Act the following proviso shall be added at the end, namely:—

Provided that the acceptance of the landlord's notice fee provided in this section shall not operate as an admission of the amount of rent or the area or any incident of such occupancy holding or be deemed to constitute an express consent of the landlord to the division of the holding or to the distribution of the rent payable in respect thereof."

Sir, I do not wish to make any speech on this amendment also, but the only thing that I would point out to this House is that this is a very useful safeguard from the landlord's point of view, and if this safeguard is done away with, it will lead to endless troubles and confusion.

Mr. PRESIDENT: Motion moved that for clause 4 of the Bill the following be substituted:—

"4. To section 26C of the said Act the following proviso shall be added at the end, namely:—

Provided that the acceptance of the landlord's notice fee provided in this section shall not operate as an admission of the amount of rent or the area or any incident of such occupancy holding or be deemed to constitute an express consent of the landlord to the division of the holding or to the distribution of the rent payable in respect thereof."

Mr. PRESIDENT: The question before the House is that for clause 4 of the Bill the following be substituted:—

"4. To section 26C of the said Act the following proviso shall be added at the end, namely:—

Provided that the acceptance of the landlord's notice fee provided in this section shall not operate as an admission of the amount of rent or the area or any incident of such occupancy

holding or be deemed to constitute an express consent of the landlord to the division of the holding or to the distribution of the rent payable in respect thereof."

The motion was lost.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I beg to move that in clause 4 of the Bill in proposed section 26C (*1*) in line 1 after the word "transfer" the following words be inserted, namely:—

"whether by succession or otherwise".

The object of the motion is for the benefit of the tenants. As a matter of fact, there is no provision either in law or by custom by which a tenant who has succeeded to the holding of his father or any other of his relatives can have his name registered in the landlord's register. There is neither in the law nor in the procedure a provision to guarantee this, and there being no condition imposed on the landlord in this respect, he may refuse to do so to create difficulties for the tenants. The tenant even after succession when he goes to pay his rent, does not fare better: the landlord may refuse to give a rent receipt in his name and to record his name in his register. The poor tenant will have to submit to this unreasonable provision or else he is to go away. He may deposit the rent but that does not help him much and will not improve his case also. Then again, Sir, the difficulties will increase when there are two or three successors in a particular holding, e.g., if the son succeeds, and after him some other person, then it will be very difficult for him to prove his title to the land. If there be any title suit, he will be put to great difficulty to prove that the land belongs to him, and in the absence of any rent receipt or other necessary receipts, it will be too much for him to get justice. So, for the benefit of the tenants, I suggest that "whether by succession or otherwise" be inserted, and at the same time a notice be sent to the landlord to have his name registered in his register and the tenant will thus get his land.

Mr. PRESIDENT: Motion moved that in clause 4 of the Bill in proposed section 26C (*1*) in line 1 after the word "transfer" the following words be inserted, namely:—

"whether by succession or otherwise".

Mr. KAMINI KUMAR DUTTA: Sir, may I rise on a point of order? My point of order is that the whole amendment is *ultra vires*. Occupancy right has been made hereditable by section 26C of the Bengal Tenancy Act, and there can be no amendment to that section.

Section 26C deals with only "Transfer" and not "Succession." The right of succession is uncontrolled and section 26 is unaffected. So by proposing an amendment to section 26C, no sort of impediment can be put in the path of "succession" unless section 26C is amended. Section 26C only deals with "transfer" and nothing else.

Mr. PRESIDENT: I agree and hold that the amendment is out of order. Khan Sahib Abdul Hamid Chowdhury!

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I submit that this amendment is not necessary——

Mr. PRESIDENT: But let him move it first.

Khan Sahib ABDUL HAMID CHOWDHURY: Sir, I beg to move that in clause 4 of the Bill in sub-section (*1*)(*i*) of the proposed section 26C for the words "or his common agent, if any, except where the landlord is a party to the transfer" the words "or landlords or their common agent, if any, who is or are not party or parties to the transfer" be substituted.

Sir, clause 4 of the Bill provides for notices to be served on the landlord or his common agent in every case of transfer, except when the landlord is a party to the transaction. I have nothing to say so far as the main principle is concerned, but I propose some change in the draft to make the provision of the clause more clear. Sir, I lay stress on the words "his common agent". This does not convey any meaning, inasmuch as the question of common agent does not arise at all if the number of landlords is not more than one. Then it is laid down that notices will not be served where the landlord is a party to the transaction, but there is no reference in the clause to the procedure to be followed in the case of only one landlord out of several co-sharers being a party to the transaction. My amendment is intended to clarify this point.

With these words, Sir, I beg to commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Motion moved that in clause 4 of the Bill in sub-section (*1*)(*i*) of the proposed section 26C for the words "or his common agent, if any, except where the landlord is a party to the transfer" the words "or landlords or their common agent, if any, who is or are not party or parties to the transfer" be substituted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, this is a drafting change which the hon'ble member has suggested, and the Government draftsman is of the opinion that it is not necessary because the singular here includes the plural, and the words "his common

agent" mean "their common agents", and the word "landlord" means "landlords".

Mr. PRESIDENT: The question before the House is that in clause 4 of the Bill in sub-section (*1*)(*i*) of the proposed section 26C for the words "or his common agent, if any, except where the landlord is a party to the transfer" the words "or landlords or their common agent, if any, who is or are not party or parties to the transfer" be substituted.

The motion was carried.

Mr. HUMAYUN KABIR: May I, Sir, with your permission move amendment No. 23 of the list of amendments, which stands in my name?

Mr. PRESIDENT: The hon'ble member was not present in his seat when the turn of moving his amendment came, he cannot have the opportunity now as subsequent amendments have already been moved.

Mr. HUMAYUN KABIR: Sir, I am sorry I was not here at that time. I had to go out for a minute.

Mr. PRESIDENT: The Chair cannot help that.

Rai Sahib JATINDRA MOHAN SEN: Mr. President, Sir, I beg to move that in clause 4 of the Bill, in sub-section (*1*) of proposed section 26C, the word "and" occurring in the last line of clause (*i*) be omitted, and in clause (*ii*) of the said sub-section, the word "and" be inserted at the end; and to this sub-section so amended the following clause be added, namely:—

> "(*iii*) a deposit of a mutation fee of rupees two on all transfers where the consideration or value of the property transferred is not above rupees one hundred and of rupees four where the consideration or value of the property is above rupees one hundred payable to the sole landlord or entire body of landlords in such manner as the Government may, by rules framed in this behalf, prescribe."

In this connection, Sir, may I refer to two other items, which are consequential to this amendment? And with your permission, Sir, I should like to move those two amendments as well.

Mr. PRESIDENT: Yes, you may move them also.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that in clause 4 of the Bill, in sub-section (*2*) of proposed section 26C, after the words "a process fee" the words "or fees and mutation fee" be inserted.

I also beg to move that in clause 4 of the Bill, in sub-section (*3*) of proposed section 26C after the words "a process fee or fees" the words "and mutation fee" be inserted.

Sir, I move these amendments in a spirit of conciliation, with the object of effecting a compromise between the conflicting views of the raiyats and the landlords on the important question whether the landlord is entitled to get any *selami* or not on transfer of occupancy holdings. This question was being discussed for some years past but it has come to ahead recently on account of the poverty and misery to which the raiyats have been reduced in recent years. It cannot be denied that the raiyats have been reduced to a very dire position. But are the landlords solely responsible for this? Are not the landlords themselves in an almost similar predicament? Instances of oppression by the landlords on the raiyats can be produced in number, but they are not relevant in considering the causes which have brought about the economic ruin of the peasantry. The acute depression which came upon the people so suddenly all over the world had its repercussions in Bengal which is essentially an agricultural country. Independent nations of the world adjusted themselves to the changed condition by modifying their currency system and currency policy. England went off the gold standard and some other countries followed suit. India as a dependency had to depend on England for currency and other matters. She was helpless and could not, therefore, do anything to improve her economic condition.

Bengal, being an agricultural country, the repercussion on her was the most severe. The agricultural prices went down to the bottom from which they have not been able to recover even now. In this calamitous condition which followed, the landlords and raiyats were equally involved. The proportion of landlords in debts is not less than that of the raiyats. Both the classes plunged into debts during the period immediately before the depression when the prices of the agricultural produce were at the highest. At that time the raiyats could easily pay their rents and they did not think much about their landlords.

In other countries, means were adopted to raise the prices of the agricultural produce. In India, except in the case of tea, no real efforts were made to raise the prices of any agricultural produce. We have cried ourselves hoarse for the adoption of legislation to raise the price of jute—but all in vain.

Sir, I do not want to enter into the question whether the existence of landlords between the Government and the cultivators is still a

necessity or not. That question should be left to be decided after the Commission, which is going to be appointed, make their enquiries and submit their report. So long as the landlords would exist, there should, in my opinion, be a true and correct adjustment of the relationship between them and the raiyats and to that end the amendments are directed. By my amendments I propose to do away with the payment of any landlord's fee or *selami* to the landlord as a consideration for his consent to the transfer. Instead, I proposed the payment of a mutation fee at Rs. 2 or Rs. 4 to the landlords for each transfer according as the value of the land or consideration of the transfer is up to or above one hundred rupees for making necessary changes in their *sherista*. The payment of Rs. 2 or Rs. 4, as the case may be, will not cause any hardship to the parties nor will it affect the real value or price of the property. It will not also touch the question of the claim of the landlord to receive any *selami*. In case of transfer of shares of any company, the transferee has ordinarily to pay some mutation fee to the company. So, the payment of any mutation fee cannot be open to any objection.

A landlord's fee is payable under the existing law in case of transfer of permanent tenures and no change has been effected in this behalf. There is, therefore, no reason why at least a nominal mutation fee should not be paid in the case of transfer of occupancy holdings. The raiyats should pay this nominal fee and the landlords ought to be satisfied with it. This, Sir, is, in my opinion, a just and fair compromise, and I commend my amendment to the acceptance of the House.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, whatever my personal opinion in this matter may be, I have got to oppose these amendments because Government in their collective wisdom have decided not to levy any mutation fee or transfer fee. So I oppose these amendments.

Mr. PRESIDENT: The questions before the House are —

That in clause 4 of the Bill, in sub-section (*1*) of proposed section 26C, the word "and" occurring in the last line of clause (*i*) be omitted, and in clause (*ii*) of the said sub-section, the word "and" be inserted at the end; and to this sub-section so amended the following clause be added, namely:—.

"(*iii*) a deposit of a mutation fee of rupees two on all transfers where the consideration or value of the property transferred is not above rupees one hundred and of rupees four where the consideration or value of the property is above rupees one hundred payable to the sole landlord or entire body of landlords in such manner as the Government may, by rules framed in this behalf, prescribe."

That in clause 4 of the Bill, in sub-section (*2*) of proposed section 26C, after the words "a process fee" the words "or fees and mutation fee" be inserted and that in clause 4 of the Bill, in sub-section (*3*) of proposed section 26C after the words "a process fee or fees" the words "and mutation fee" be inserted.

The motions were lost.

Rai MANMATHA NATH BOSE Bahadur: I beg to move that in clause 4, in sub-section (*1*) of the proposed section 26C the word "and" at the end of clause (*i*) be omitted, at the end of clause (*ii*) the word "and" be inserted and to that sub-section so amended the following new clause be added, namely:—

"(*iii*) landlord's fee amounting to five per centum of the sale price or the value of the holding or portion or share thereof transferred."

In moving my amendment I wish to make certain observations. The main reason, so far as I understand, for substituting the new section 26C is to repeal all provisions about the transfer fee. The new section is of an expropriatory nature. Landlord's immemorial rights have hereby been unlawfully sought to be confiscated. This legislation will not in the majority of cases benefit the actual tiller of the soil who are admittedly poor and have no means to purchase occupancy holdings. The lands will come to the hands of persons who have no abiding interest in them and who will employ hired labourers or temporary cultivators to cultivate them. As these also have no real interest in the lands, these will gradually deteriorate to the detriment of everybody. When the lands would not bring much profit owing to such deterioration, they would be sold away again and a cry will be raised that the rent assessed is high and should be reduced. There will thus be a vicious circle which it should be the purpose of law to prevent.

If we go into the history of land tenures in Bengal, we find that such a course is not warranted. In the Hindu period the whole of the land belonged to the King and the husbandmen were allowed to till the land on condition of payment of a certain portion of the produce. That this was so will appear from the accounts of even such a casual observer as Magasthens. It is observed in the Cambridge History of India, Volume 1, page 475—"Apart from the royal domains which must have been considerable, the ultimate property in the land appertained, in the sense which has since prevailed, to the King; that is to say, the King was entitled to his revenues therefrom and in default, could replace the cultivator in his holding. This does not preclude alienation or subdivision by the occupier, the royal title persisting through each change. It was the King's business to

organise the agricultural productivity by encouraging the surplus population to settle new or abandoned tracts". In Arthashastra, Chapter XIX, it is stated—"There was a system of village autonomy with an official nominee (Gramani) at the head. Through him there was a joint responsibility for the assignment and payment of land revenue and consequently for the proper cultivation of the fields, which failing, the occupier might be replaced by the village servants". This system appears to have prevailed even in the Vedic period. These "Gramanis" appear to be the origin of the present zemindars. I am aware that a different statement appears to have been made by the late Mr. Sarada Charan Mitra in his Land Laws of Bengal, but the statement appears to have been made on insufficient data and recent researches have proved that the statement is not a correct one.

The same system with modifications continued in the Muhammadan period. *Amilguzzar* or Collector of revenues assisted the needy husbandmen with loans of money and received payment at distant and convenient periods. When any village was cultivated to the highest degree of perfection by the skilful management of the chief thereof, he was remunerated with half a *bisca* out of every *bigha* of land. During the time of Akbar the great settlement of rent used to be concluded for lands for a certain term of years (*Ain-i-Akbari*, Volume I, Part III, Division of lands, etc., and Instructions for *Amilguzzar* and the *Tepullchy*).

The word "zemindar" literally means a landholder. The zemindars had come into existence long before Akbar's time. They were charged also with the maintenance of peace and kept a large number of troops. Within their own domain they were practically independent, subject to the payment of revenue to the sovereign power for the time being.

Coming to the British period we find that Regulation VII of 1799 ordinarily known as Haftam Regulation laid down that a tenant is to have a right of occupancy only so long as a certain rent was paid "without any right of property or transferable possession." By the Act X of 1859 the distinction between *Khudkast* and *Paikast* raiyats was abolished and both were given rights of occupancy. It is silent, however, as to his right to transfer his tenancy. But it was held in two Full-Bench rulings that the occupancy raiyats have no such rights. There are other authorities as well but I refrain from citing them. This was the state of law when the Bengal Tenancy Act was passed. In 1928 material alterations were made in that Act and it was found that the fee realised by the landlord on a transfer of holding ranged from 25 to 33 per cent. of the purchase money. The above history shows that the raiyats had no saleable interest in land from time immemorial. The land belonged to the Crown which, at the time of the Permanent Settlement, parted with all these rights except the

right to receive the revenue in favour of the zemindars. This was done for a very good reason, as Mr. Shore's Minutes will show. At that time nine-tenths of the gross income of the zemindars were reserved for the Crown. If raiyats are allowed unrestricted transfer of lands, undesirable persons will come in leading to eternal conflict between the landlord and the tenant. The raiyats are generally poor, and if transfer is unrestricted, they are so improvident that they would soon lose their lands and all the lands will go to the *mahajans* or to a capitalist class composed of men who are not *bona fide* husbandmen and the cultivation is bound to deteriorate. A true peasant is one who remains a peasant and where there is conflict between the interest of a farm and its farmer, the latter should suffer instead of the former. The peasant therefore should not be a middleman in respect of any portion of his holding. Besides, a holding should not deteriorate below an economic unit and it should not be sublet or subdivided. If a strip of land is allowed to be transferred, this rule will be infringed and that will lead to minute divisions or fragmentation not capable of being cultivated. Moreover, if a transfer is allowed to be made without restriction, new sets of tenants will soon come in who may not discharge their obligations and may endanger security of tenure. Further, by not paying the landlord's fees the occupancy raiyat is placed in a more advantageous position than the *mokarari* raiyat or the permanent tenure-holder. It is therefore desirable that some fee at least, whatever may be the amount, should be paid at the time of the transfer; and the amount which I suggest here is very small indeed, namely, 5 per cent.

In this connection I cannot but raise the question as to whether the local Legislatures have any right to do away with the landlord's fees. I have already said that in former times the Crown was the ultimate owner of the lands and subsequently the "*Gramanis*" in the Hindu period and the zemindars in Muhammadan times had the ownership of the land. Without, however, entering into any such controversy on this point, this much is certain that by the Permanent Settlement (Reg. 1 of 1793) the Crown parted with all its rights in favour of the zemindars except the right to receive revenue. The *Kabuliyats* executed by the zemindars in pursuance of the Permanent Settlement will also show this. As I have already stated, a raiyat had never the right to transfer his land; so if it is intended that a raiyat will have the unrestricted right to transfer, that is a serious inroad on the rights of zemindars upon whom absolute right was conferred by the contract above-mentioned and whose right, hitherto, was recognised in the shape of landlord's fees. The Crown is bound by law and contract to recognise absolute ownership of landlords and cannot curtail their rights without their concurrence. Hence neither the Legislative Assembly nor the Legislative Council possesses this right. If it is intended to confer a new right on the raiyats,

that cannot be done without curtailing the landlord's rights, i.e., without their concurrence. The Legislatures have no right to infringe the Crown's contractual obligations entered into in pursuance of the Regulation I of 1793, which obligations have been accepted and acted upon so long and which have been taken upon by the present Legislatures. I may mention here that though the *Kabuliyats* were executed at the time of the East India Company, the Crown took upon itself all its obligations in 1857 and is discharging those obligations since then in pursuance of the terms of an Act of Parliament passed at that time. The landlords have done nothing to merit such treatment. Why should they be penalised for no fault of their own? The Select Committee have conferred the right of pre-emption on the landlords but no useful purpose will be served by such conferment if the landlord's fee be wholly abolished. The purchaser will mention in the deed of sale a false and greatly exaggerated sum and thus render impossible the pre-emption by landlords. If the purchaser has to pay the landlord's fees, however small, this will not be possible. In fact the landlord's fee and pre-emption are so correlated with one another, that one cannot be omitted without the other.

With these observations, I beg to submit my amendment and I hope it will receive the support of the House.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I rise to oppose the amendment moved by Rai Manmatha Nath Bose Bahadur ——

Mr. PRESIDENT: Order, order. We shall take up this matter to-morrow. I would like to tell the House that it may be necessary to sit for longer hours next day, because we must finish the Bengal Tenancy Act within a reasonable time. If necessary, we shall have to sit even after dinner.

Adjournment.

The Council then adjourned till 2 p.m., on Thursday, the 31st March, 1938.

Members absent:

The following members were absent from the meeting held on the 30th March, 1938:—

(1) Datta, Mr. Narendra Chandra.

(2) Haider, Nawabzada Kamruddin.

(3) Hossain, Mr. Latafat.

(4) Jan, Khan Bahadur Shaikh Muhammad.

(5) Lamb, Mr. T.

(6) Mookerji, Dr. Radha Kumud.

(7) Ormond, Mr. E. C.

(8) Ray, Mr. Nagendra Narayan.

(9) Sinha, Rai Bahadur Surendra Narayan.

(10) Stokes, Mr. H. G.

B. G. Press—1938-39—3836A—900.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Thursday, the 31st March, 1938, at 2 p.m., being the thirtieth day of the First Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Chief Inspector of Factories.

304. Mr. LALIT CHANDRA DAS (on behalf of Mr. Shrish Chandra Chakraverti): (*a*) Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state whether it is a fact that the Government maintain a large establishment with the Chief Inspector of Factories at the head, with a view to strictly enforcing the legislations that were enacted for the welfare of labour?

(*b*) If the answer to (*a*) be in the affirmative, will the Hon'ble Minister be pleased to lay on the table a statement showing for the period from June to December, 1937—

(*i*) the number of inspections made by the staff of the Chief Inspector of Factories, together with the names of the factories inspected and the date of such inspection; and

(*ii*) the number of prosecutions launched by the Chief Inspector of Factories for breach of the Payment of Wages Act and the Factories Act together with the names of the factories proceeded against and the dates and results of such prosecutions?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Minister in charge of the Commerce and Labour Department): (*a*) The strength of the Factory Inspectorate consists of one Chief Inspector, eight Inspectors (one post vacant) and two wholetime Certifying Surgeons (one post not filled since April 1931). This strength is considered inadequate and the question of increasing the number of Inspectors is under my consideration.

(*b*) (*i*) The number of inspections made to factories from 1st June to 31st December, 1937, was 1,673. A statement showing the names of the factories and the dates of their inspection is laid in the Library.

(*ii*) A statement is laid in the Library.

Certain Allegations against St. Andrews' Press.

305. Khan Bahadur ATAUR RAHMAN (on behalf of Mr. Moazzemali Chaudhury): (*a*) Is the Hon'ble Minister in charge of the Commerce and Labour Department aware that the industrial employees of the St. Andrews' Press at 1, Sun Yat Sen Street, Calcutta, submitted on the 28th January, 1938, a largely signed petition inviting his attention to the number of men discharged and the evasions of the Payment of Wages Act by the proprietors of the said Press?

(*b*) Is he also aware that the Labour Commissioner and the Chief Inspector of Factories did not take any step to remove the grievances, though prayed for?

(*c*) If the answers to (*a*) and (*b*) be in the affirmative, will the Hon'ble Minister be pleased to lay on the table a statement showing—

(*i*) the contents of the said petition; and

(*ii*) the steps taken or intended to be taken in the matter?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Minister in charge of the Commerce and Labour Department): (*a*) Yes.

(*b*) The Chief Inspector of Factories enquired into a similar complaint in respect of the same factory and from the same source which he received in November, 1937, which proved abortive, but brought it to the notice of the authority under the Payment of Wages Act.

(*c*) (*i*) A copy of the petition is placed in the Library.

(*ii*) The authority under the Payment of Wages Act directed the Association to file a complaint in the prescribed form. Action will be taken by him on receipt of the complaint.

MESSAGE FROM THE ASSEMBLY.

The Bengal Expiring Laws Bill, 1938.

Mr. PRESIDENT: The Secretary will now read the message from the Secretary, Bengal Legislative Assembly.

The SECRETARY to the COUNCIL (Mr. K. N. Mazumdar): Sir, I have received the following message from the Secretary, Bengal Legislative Assembly:—

"In pursuance of section 81 of the Bengal Legislative Assembly Rules and Standing Orders, I am directed to convey the message that

the amendment made by the Council to the Bengal Expiring Laws Bill, 1938, has been agreed to by the Bengal Legislative Assembly at its meeting held on the 29th March, 1938."

GOVERNMENT BILL.

The Bengal Tenancy (Amendment) Bill, 1938.

Mr. PRESIDENT: The Council will now resume discussion on the Bengal Tenancy (Amendment) Bill, 1938.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Mr. President, Sir, I rise to oppose the amendment moved by Rai Manmatha Nath Bose Bahadur, which seeks to restore the pernicious provision of *selami* in the Act, though in a milder form. Sir, I shall first give reply to the specific points raised by the Rai Bahadur and thereafter examine the larger question of zemindars' right to *selami*.

The Rai Bahadur has stated that abolition of *selami* will result in unrestricted and reckless transfers which will make the raiyats landless within a short time. But was *selami* a check at all on tarnsfers? It is the considered opinion of this side of the House that it was not. The *selami* only went to fill the pockets of the zemindars with correspondingly less amount in the pockets of the raiyats selling the land, and nothing else. A raiyat in financial difficulty cannot afford to wait, and the apprehension of his getting 20 per cent. less as price of his land on account of *selami*, can never stand in the way of his selling the land. It is absolutely misleading and fallacious to say that *selami* ever acted as a check on transfers. But even if it were, the reduction in *selami* to 5 per cent. from 20 per cent. as proposed by the Rai Bahadur, will still make it apparently ineffective as a check. For preventing lands passing out to non-agriculturists a really effective legislation should be enacted—probably a Land Alienation Act, on the lines of the provisions in the Punjab Land Alienation Act, as recommended by the Royal Commission of Agriculture.

Then the Rai Bahadur contends that by altogether abolishing *selami*, the Legislature will be placing the occupancy raiyats in a better position than tenure-holders and raiyats at fixed rates. But even at present, according to the law as it stands, the occupancy raiyat is in a better position so far as succession by inheritance is concerned, as he has not got to give any notice nor has to pay any landlord's fee, but a person succeeding a tenure-holder or a raiyat at fixed rate, has got to give notice and pay landlord's fee under section 15. The concession in favour of raiyats is only extended in case of transfer so far as payment of landlord's fee is concerned, in view of the fact that they are generally

poorer and being agriculturists they deserve to be excused. Then again on reference to Act X of 1859 (the first Rent Law), it will be found that it was made obligatory on zemindars to register transfer of certain kinds of tenure but there was no provision for payment of landlord's fee; in the Act VIII of 1885 all transfers of tenure were made liable to landlord's fee. The landlord's fee which was not previously thought of, evidently because it was considered to be an *abwab*, imperceptibly crept in later on in the Statute Book as the zemindar grew in power and succeeded in misleading the Legislature about his rights to a fresh imposition in the shape of landlord's fee. When the entire Bengal Tenancy Act is again taken up for amendment, there will certainly be proposals for doing away with landlord's fee in respect of tenure and holdings of raiyats at fixed rates also and the Rai Bahadur need not be anxious for the disparity now visible.

Sir, I now proceed to examine the larger question raised in connection with this amendment. It is urged that the absolute proprietors of the soil, the zemindars, could refuse recognition of transfer, but they agreed to grant recognition on payment of a specified amount as *selami* as a concession to the raiyats. Sir, the representatives of the Progressive Party—particularly the Maharaja Bahadur of Santosh and the Raja Bahadur of Nashipur—have been constantly dinning in our ears the inherent rights of the zemindars as proprietors of the soil. For finding out what this proprietary right to soil really meant, I do not intend to go to ancient history as my friend the Rai Bahadur has done, but I wish to confine myself to British period. I shall answer the question taking my stand on no less an important document than the Minute of Lord Cornwallis, dated the 3rd February, 1790, by which he proposed Permanent Settlement, and the Despatch of 19th September, 1792, of the Hon'ble Court of Directors sanctioning Permanent Settlement. From paragraph 46 (*1*) (*2*) of the Minute of Lord Cornwallis we get an inkling into the real import of the proprietorship of soil which was proposed to be conferred on zemindars. Sir, I quote from the paragraphs referred to:—

"46 (*1*) The question that has been so much agitated in this country whether the Zemindars and Talookdars are the actual proprietors of the soil or only officers of Government, has always appeared to me to be very uninteresting to them, whilst their claim to a certain percentage upon the rents of their lands has been admitted, and the right of Government to fix the amount of those rents at its own discretion, has never been denied or disputed.

Under the former practice of annual settlement, zemindars who have either refused to agree to pay the rents that have been required, or who have been thought unworthy of being entrusted with the management, have since our acquisition of the *Dewany*, been dispossessed in numberless instances, of their lands held *Khas* or let to a farmer, and when it

is recollected that pecuniary allowances have not always been given to dispossessed zemindars in Bengal, I conceive that a more nugatory or delusive species of property could hardly exist."

The second paragraph runs as follows:—"On the other hand, the grant of these lands at a fixed assessment will stamp a value upon them hitherto unknown, and by the facility which it will create of raising money upon them either by mortgage or sale, will provide a certain fund for the liquidation of public or private demands, or prove an incitement to exertion and industry by securing the fruits of those qualities in the tenure to the proprietors' own benefit."

Sir, the Court of Directors also practically accepted this view of the former and the future right of the zemindars and their remarks will be found in paragraph 20 of the Despatch from which, with your permission, I would read an extract which runs as follows:—

"Custom generally gave them a certain species of hereditary occupancy, but the Sovereign nowhere appears to have bound himself by any law of contract not to deprive them of it; and the rents to be paid by them remained always to be fixed by his arbitrary will and pleasure which were constantly exercised upon this object. If considered, therefore, as a right of property, it was very imperfect and very precarious having not at all or but in a very small degree those qualities that confer independence and value upon the landed property of Europe. Though such be our ultimate view of this question originating a system of fixed equitable rent will sufficiently show that our intention has not been to act upon the example of Asiatic despotism. We are, on the contrary, for establishing real, permanent valuable landed rights in our provinces for conferring that right upon the zemindars, but it is just that the nature of this concession should be known and that our subjects should see they receive from the enlightened principles of a British Government what they never enjoyed under the happiest of their own."

Sir, from extracts, I have quoted, it will appear what an imperfect and precarious right the zemindars had before and the right decided upon to be conferred on them was nothing more than giving the zemindari in his charge a marketable value by fixing the assessment in perpetuity and thereby distinguishing his right from that of a hereditary right to collect rent as an officer. Mr. Shore (afterwards Sir John Shore) had objected to the Permanent Settlement on the ground of various difficulties particularly "the difficulty of forming and executing such regulations as shall secure to the great body of raiyats the same equity and certainty as to the amount of their rents, and the same undisturbed enjoyment of the fruits of their industry which were meant to be given to the zemindars themselves."—(lines 16 to 22 of paragraph 36 of the Court of Directors' Despatch of 19th September, 1792). This difficulty, the Court of Directors observed, could be solved by granting

of *pattas* to raiyats in all cases showing the exact amount of rent to be paid by each—(paragraph 44 of the Despatch).

Mr. Shore had also raised the question whether granting permanent proprietary right to zemindars was not inconsistent with the idea of reserving right to legislate for protection of raiyats and Lord Cornwallis answered the question as follows:—"If Mr. Shore means that after having declared the zemindar proprietor of the soil, in order to be consistent, we have no right to prevent his imposing new *abwabs* or taxes on the lands in cultivation, I must differ with him in opinion unless we suppose the raiyats to be absolute slaves of the zemindars. Neither is the privilege which the raiyats in many parts of Bengal enjoy in holding possession of spots of land which they cultivate so long as they pay the revenue assessed upon them, by any means incompatible with the proprietary rights of the zemindars. Whoever cultivate the land, the zemindars can receive no more than the established rent, which in most places is fully equal to what the cultivators can afford to pay. To permit him to dispossess one cultivator for the sole purpose of giving the land to another, would be vesting him with a power to commit a wanton act of oppression from which he could derive no benefit."

In the extract quoted the portion "whoever cultivate the land, the zemindar can receive no more than the established rent" is very significant and shows in unambiguous words that the zemindar is bound even to accept a trespasser, or a squatter, far less the successor in interest of a raiyat by purchase. So also the portion quoted from the Hon'ble Court of Directors' Despatch about "forming and executing such regulations as shall secure to the great body of raiyats the same equity and certainty as to the amount of their rents and the same undisturbed enjoyment of the fruits of their industry which were meant to be given to the zemindars themselves" is very significant and clearly shows beyond all shadow of doubt that by the Permanent Settlement the Court of Directors wanted to give to the raiyat the same right which they gave to the zemindar. Where is then the room for the supposition that the zemindar had absolute right or he had any right either, to dispossess a purchaser or to realise any premium from him for recognition? The zemindar, according to the extracts quoted, had no right even to alter the rent, once it was established. The proprietary right given to him was to distinguish it from the hereditary right he had before of collecting the rent as an officer of Government. He had absolutely no right to interfere with the raiyat for whose welfare Mr. Shore, Lord Cornwallis and the Court of Directors were so anxious, and the Court of Directors devoted full two paragraphs (paragraphs 49 and 50) of their Despatch explaining the necessity of vigilance of a Government officer in the protection of the tenantry who were weak and ignorant, and hence likely to be oppressed by the zemindar under

altered circumstances. *Pattas* were enjoined to be given to raiyats evidently for the reason that their rents might not be enhanced and in paragraphs 54 and 55 of Regulation VIII of 1793 new imposition of any tax under whatever pretext was not only forbidden but made penal. Is not *selami* a new imposition on the pretext of transfer fee and is it not hence an abwab, pure and simple? If an imposition like this in spite of clear injunctions in the Regulations could be legalised, anything, e.g., inheritance fee, marriage fee, etc., can as well be made legally due.

But Sir, in spite of all these solicitations and precautions, the worst apprehensions of Mr. Shore and the Court of Directors have come true. The zemindars wantonly disturbed the rents of raiyats meant to be fixed in perpetuity like their own revenue, otherwise the raiyati assets would not have increased by 400 per cent. of what it was at the time of the Permanent Settlement. Sir, at the time of the Permanent Settlement the total revenue was fixed at Rs. 2·57 crores and the zemindars were given only Rs. 25 lakhs—nine-tenths of the assets having been fixed as revenue—as collection charge and profit. But from the records I have seen and the experience I have gathered of different parts of Bengal, my idea is that the present raiyati assessment is in the neighbourhood of Rs. 15 crores, of which only Rs. 2·57 crores is revenue and the remaining Rs. 12·43 crores is their profit. Sir, the zemindar's net profit has increased from Rs. 25 lakhs to Rs. 12·43 crores—the increase works out at about 4,800 per cent. Not satisfied with going behind the terms of adjustment with raiyats and wantonly enhancing their rents, they must have another Rs. 40 lakhs secured to them in the shape of *selami* as a legal due, although it was *abwab*, pure and simple, according to the Regulation VIII of 1793.

Sir, the raiyats, who according to the instructions of the Hon'ble the Court of Directors, were to share the benefit of the Permanent Settlement as equal partners have practically been reduced to the position of serfs or slaves or still worse. Until the amending Act of 1928, they were refused even the right to cut the trees grown by them in their own homestead, which were legally considered to be the zemindar's property, and were wantonly cut and taken away by the zemindars. They could not even dig well for drinking purposes, nor could they build a decent house, and they are even now not allowed to sell their own land without the payment of a fine to the zemindars. Sir, even a slave-driver perhaps will not grudge his slave selling their personal belongings, but our generous zemindars will not allow the raiyats to sell their holdings without something for their pocket. The raiyat's case has suffered on account of his ignorance and illiteracy and because his case was never properly placed before the Legislature. The zemindar has completely appropriated to himself all the benefits of the Permanent Settlement to the exclusion of the raiyat, and now when an attempt is being made at

readjustment, it is being decried as expropriation. But, Sir, this state of things cannot continue long. Thanks to the democratic spirit now pervading throughout the country, thanks to the educative effect of election propaganda, the raiyat is fast becoming conscious of his rights and privileges. He will no longer tolerate his sacred rights being trodden under foot. Now the tenants claim equal partnership with the zemindars, and would shortly claim restoration of rents on the basis of *nirikh bandi* papers of the Permanent Settlement period, and they do so on the strength of the original documents granting Permanent Settlement to the zemindar. The zemindar must move with the times if he is to exist at all. He must change his angle of vision and give up the spirit of antagonism. Instead of waiting and lamenting for inroads on his so-called cherished rights, he must identify his interests with those of the raiyat, as we, the Muslim landholders of this House and the Lower House and our good friend and colleague, Rai Radhica Bhusan Roy Bahadur, have done.

Instead of losing all touch with the tenants by living in pomp and luxury in big cities they should go back to the country and live, move and have their being with their tenantry, share with them their joys and sufferings and administer to their needs and requirements and be in fact their best friend, philosopher and guide. If they do so, the raiyats will even now, in spite of past offences of omission and commission, readily accept them as their natural leader. But if they choose the old ways, their fate is sealed.

Sir, I would request the hon'ble members of the European Group not to be misled by selfish propaganda of interested parties but to read the whole of Lord Cornwallis' Minute and the Court of Directors' Despatch referred to by me and to come to an independent judgment as to whether or not the sacred rights of raiyats have been trampled under foot and also whether the landlords' allegation of expropriation is at all correct. I would appeal to the hon'ble members of the Congress Group to consider seriously whether they can conscientiously support an arbitrary and unjust imposition like *selami* under whatever pretext and from whomsoever it may be realised. Consistently with their declared policy of helping the weak and the poor, to stand against exploitation of the strong and the rich, they cannot support *selami* in any form.

Sir, clause 4 of the Bill against which the Rai Bahadur's amendment is directed, merely seeks to repeal the provision regarding payment of obnoxious *selami* to landlord, which has blackened the Statute Book of Bengal and our side of the House is strongly of opinion that the clause should stand part of the Bill without any amendment. The Lower House has given it a decent burial; it will be foolish to exhume it in the hope of bringing it back to life. With these remarks, Sir, I oppose the Rai Bahadur's amendment.

Rai Sahib INDU BHUSAN SARKER: Sir, I rise to support the amendment so ably moved by Rai Manmatha Nath Bose Bahadur. My argument is that in any transfer of holdings by occupancy-tenants, landlords have always realised transfer fee. The transfer of holding being in the first instance based on customary right, the realisation of transfer fee was also customary. In the Tenancy Act of 1928 the transfer of holdings was made a statutory right and the transfer fee was accordingly given a statutory recognition. Transfer fee was thus a source of income to landlords since when transfers of holdings by occupancy tenants were taking place.

The right of realising transfer fees flows from the proprietary right of landlords. Landlords are proprietors of land and by virtue of that fundamental right they used to realise transfer fees. This right was never challenged either by the customs or by the law of the country; it could not be also challenged as the right of realising transfer fee is an incident of proprietary right.

Transfer fee is a source of income arising out of land and being a "benefit" arising from land, it is an immovable property of landlords. Its abolition clearly affects rights in land.

Landlord's transfer fee was firstly a customary source of income and at present it is a statutory source of income. Investments in land have taken place on the basis and calculation of this source of income, the abolition whereof without providing for any form of compensation amounts to an act of expropriation, a policy which is discouraged by the Government of India Act, 1935.

The abolition of landlord's transfer fee being a modification of the proprietary right in land of landlords, has its bearing on the given land-system inasmuch as it alters the character of the Permanent Settlement. Legislations altering the character of the Permanent Settlement are forbidden under the Instrument of Instructions to Governors.

Landlord's Transfer Fee Act is a handicap to frequent and unrestricted transfers by occupancy tenants. Unrestricted right of alienation of holdings is nowhere considered a sound agricultural practice. A tenant, if given the unrestricted right of alienation of holdings, invites complications in the land system either by divorsing himself from agriculture or by degenerating his status or by helping concentration of holdings in the hands of speculating non-agriculturists. Accordingly, in every country we find restrictions on tenants' right of transfer of holdings.

Unrestricted right of transferability of holdings will invite the cupidity of *mahajans* and attract credit capital for unproductive purposes which in the long run entangle tenants.

The abolition of transfer fee will benefit only occupancy tenants, the majority of whom in respect of the major portion of their holdings are nothing but middlemen; they do not form the peasant population

of Bengal. Thus by benefiting occupancy raiyats, the lot of actual cultivators is not improved in any way. Merely the proposed relief will give rise to a new class of petty landlords who being resourceless and unimaginative, turn out to be the worst of oppressive landlords. That is the lesson of history of the *Kulaks* in Rusia. With these few words, I beg to support the amendment.

Khan Bahadur Md. IBRAHIM addressed the House in Bengali. The following is the English translation of his speech:—

Mr. President, Sir, the Maharaja Bahadur and Rai Manmatha Nath Bose Bahadur have elaborately discussed the history of *selami* with reference to the Hindu Rule, the Mahomedan Rule, the rule by the East India Company and the British Rule. The peasants of Bengal have hardly any knowledge of all those historical facts. They even do not know how to read and write. They are unsophisticated and are absolutely ignorant of the three R's. They are quite innocent of grammatical rules. They designate the zemindar both as a father and a mother. These children have so far performed much of their duty towards their father and mother. But these children cannot make out if all these fathers and mothers of Bengal are, in their turn, mindful of their own duties. These children have maintained this band of fathers and mothers comfortably enough by providing them with cosy dwellings, milk-white bed, sumptuous food, easy chairs, cushion chairs, electric fans and lights, horses, elephants, motor cars, carts drawn by horses, etc., etc. Still their demands know no bounds. Old Lord Cornwallis, while bed-ridden with illness, sowed in 1793 on the well-watered, well-fruited fields of Bengal green with rich crops, the seed of the poison-tree which has now grown into a huge tree spreading its twigs and branches all over Bengal. *Selami* is a bitter fruit growing on a branch of that huge tree. The people of Bengal are quite sick of the bitter taste of this fruit. But the band of fathers and mothers pay no attention to them. Just as the old Congress of Surendranath, given as it was to making petitions and prayers, has been replaced by the powerful Congress organization of to-day, in the same way the tenants of Bengal have, as a result of the liberal education imparted by the English, come to learn that this band of fathers and mothers are not properly discharging their duties towards their children. Hence, it is for the children to take over their own rights in their own hands. When old Lord Cornwallis on his death-bed arrived at the decennial settlement with the *tahsildars*, no consultation was held with the tenants, nor were their opinions taken into consideration. This settlement therefore cannot stand. The consultation was held only between two parties, viz., the Government and the zemindars; while the tenants were left out. It is the zemindars who take this for a settled fact, but the time has come when this should be unsettled.

Many a settled fact has been unsettled. The great kingdom of the Russian Czar is no more. The Czar and the Czarina have been blotted out of existence. As compared with all this the decennial or the Permanent Settlement pales into insignificance. It is very easy to understand how very unjust this decennial or Permanent Settlement is. As a result of the liberal education imparted by the English, the peasantry in Bengal has become quite alive to the fact that this settlement should not be maintained at all. It was decided at the time of the decennial settlement that the zemindars should pay an annual revenue of 3 or 3¼ crores of rupees to the Government. They are now realizing 24 or 25 crores of rupees from the people. The total revenue of the Bengal Government amounts to 12½ crores of rupees. Out of this, 3 or 3½ crores are paid by the zemindars. The remaining 9 or 10 crores of rupees are realized through taxation imposed upon the people. The people have, therefore, to pay 24 or 25 crores of rupees to the zemindars and 9 or 10 crores to the Government, i.e., in all 34 or 35 crores of rupees. In case the settled fact is unsettled, the total revenue of Bengal may be brought down to a figure of 14 or 15 crores even by reducing to one-half the revenue of Bengal and abolishing other taxes. I beg to submit further that this decennial settlement has been the root cause of all the distress in Bengal to-day. For, the examples of the zemindars enjoying ease, comfort and dignity in plenty without any the least exertion on their part have induced others, who earned money through other means, to purchase zemindaries with their money and not to invest it in business enterprises. "Fortune comes through trade and commerce" is a proverb which is devoid of all its significance in Bengal. We have kicked at the Goddess of Fortune in Bengal and driven her out to Bombay, the Punjab, Rajputana and other places. If the Goddess of Fortune of Bengal is to be brought to her own province again, the dignity attached to owners of zemindary and the easy luxury enjoyed by them should be done away with. This will make people business-minded and the Goddess of Fortune or wealth of Bengal will come back to Bengal. Unless this is done, Bengal will have no prospect before her. I appeal to the zemindars not to demand any *selami* henceforth. They have enjoyed enough of each and comfort. Let them now sail with the wind. If they want to stem the tide by means of barriers, these barriers will be swept away in a short time like walls of sand. I tell the Congress party that the Act called the Bengal Tenancy (Amendment) Act which you passed in 1928 is nothing but an impracticable proposition. Just as a blind boy is called *Padmalochan* (lotus-eyed), a boy with a fair complexion, *Kalachand* (literally, the Black Moon) and a dark-skinned one, *Gauranga* (the white-skinned), in the same way this Act, instead of being called the Tenancy Act, should have been dubbed the Zemindary Act or the Annihilation of Tenancy Act! In the said Act, a number of dirty things like the right of pre-emption and others have been gathered

together. It is for this reason that I submit to the Congress party that it is high time for them to atone for their sin. We hope they will agree with the Coalition party on this point. I also invite the zemindars to cast their votes impartially. I appeal to the Coalition party to unite and support this Bill with a view to ameliorating the condition of the tenants. Let not the sufferings of the tenants be prolonged any further. The resolution brought against the system of *selami* is quite reasonable one. I support it whole-heartedly.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I am in the unhappy position of not being able to see eye to eye with the mover of the amendment or with my friend Khan Bahadur Saiyed Muazzam-uddin Hosain. I do not propose to justify my Bill or to oppose the amendment of Rai Manmatha Nath Bose Bahadur on the ground of existence or non-existence of the right of landlords to *selami*. I would ask my landlord friends to accept the inevitable with good grace. My main justification for commending the Bill clause to the acceptance of the House is that it will give some relief to the agriculturists; it will increase his credit by at least twenty per cent. and that this Bill is meant to remove one of the urgent grievances of the tenants—one of the grievances which the tenants have been agitating against since 1928 making *selami* a statutory right of the landlords. The question whether it is an incident of the proprietary right of the landlords or not, I am not going to discuss. It is rather too late to suggest that the landlords have got no right to *selami* after the Act of 1928, whatever the position might have been in the past. They no doubt acquired the statutory right to have *selami*. It is therefore not necessary to go before 1928.

With these few words, I oppose the amendment.

Mr. PRESIDENT: The question before the House is that in clause 4 of the Bill, in sub-section (*1*) of the proposed section 26C the word "and" at the end of clause (*i*) be omitted, at the end of clause (*ii*) the word "and" be inserted and to that sub-section so amended the following new clause be added, namely:—

> "(*iii*) landlord's fee amounting to five per centum of the sale price or the value of the holding or portion or share thereof transferred."

The motion was lost.

Mr. PRESIDENT: Mr. Naresh Nath Mookerjee, do you want to say anything?

Mr. NARESH NATH MOOKERJEE: I wanted to say that there has not been sufficient discussion on the point. The Congress Group was

not given an opportunity to speak on the motion. There has been only one speech from this side.

Mr. PRESIDENT: Order, order; that is for the Chair to decide.

Mr. HUMAYUN KABIR: I beg to move that in clause 4 of the Bill, after sub-section (*3*) of proposed section 26C, the following sub-section be inserted, namely:—

"(*3a*) No Court or Revenue Officer shall confirm the sale of a holding, or portion or share thereof put to sale in execution of a decree or a certificate under the Bengal Public Demands Recovery Act, 1913, and no Court shall make a decree or order absolute for foreclosure of a mortgage of such a holding or portion or share thereof unless the auction purchaser or the mortgagee or their authorised agent certifies by a written endorsement that the purchaser or mortgagee is an agriculturist according to Bengal Tenancy Act of 1938."

My purpose in moving this amendment is quite plain. As has been said very clearly by Khan Bahadur Saiyed Muazzamuddin Hosain today——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: On a point or order, Sir. This amendment is meant to limit the transfer of occupancy holdings from one agriculturist to another agriculturist and to exclude the non-agriculturist. I think it is outside the scope of the Bill.

Mr. HUMAYUN KABIR: May I submit that there is some confusion?

Mr. PRESIDENT: Yes, after Sir Bijoy has finished.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The clause 4 of the Bill seeks to amend section 26C of the Bengal Tenancy Act which confers right of transfer of occupancy holdings of occupancy raiyats subject to the payment of landlord's transfer fee. There is no such provision that an occupancy holding must be transferred to a particular class of tenants, i.e., agriculturists or non-agriculturists. So here the hon'ble member seeks to introduce a limitation which in my opinion is outside the scope of the bill clause.

Mr. HUMAYUN KABIR: Sir, I shall submit that there seems to be a great deal of confusion in the mind of the Hon'ble Minister. For he says that my amendment wants to impose a limitation upon the transfer of a holding from one agriculturist to another agriculturist. The purpose of this amendment is just the reverse. The purpose is that it

wants to prevent the transfer of an occupancy holding to anyone but an agriculturist.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is what I said.

Mr. HUMAYUN KABIR: On the point of order, I submit that as the objection seems to be only on the ground that the present Bill seeks to abolish the transfer fee which formerly one had to pay whenever there was any such transfer.

There is no mention in the Bill about the class of persons to whom land may be transferred or not, and I submit that it is within the competence of the House to specify the type of people to whom such transfers can be made. My amendment is in no way against the purpose of this Bill, which is only to do away with the claims of landlords to transfer fee. That has been abolished and the only question is that whenever there is any such transfer, it should go to agriculturists and not to anybody else.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I explain the matter more fully?

Mr. PRESIDENT: Let the hon'ble members finish first and then you can speak.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, the Hon'ble Minister has got a very narrow idea of the scope of the Bill. The Bill has not yet become a law. By this Bill he wants to extend the right of transfer to a person without any limitation. Mr. Kabir's amendment seeks to limit this right of transfer. So how is it outside the scope of the Bill? It may be that he wants as well as the Council wants that this extension should not be given full effect to, but with some qualifications. Therefore, I do not know how the amendment is beyond the scope of the Bill.

Khan Bahadur ATAUR RAHMAN: This amendment cannot stand for other reasons. It is only giving some restriction of sales by civil courts or revenue courts, but what about the sales by private individuals? So this amendment cannot go in. This should apply to only one class of people.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I would just draw your attention to section 26B of the Tenancy Act—the holding of an occupancy raiyat or a share or a portion thereof together with the right of occupancy therein, shall, subject to the provisions of this Act, be capable of being transferred in the same manner and to the same

extent as other immovable property. That is the section which confers a substantive right and section 26C lays down the provisions, subject to which those transfers should be made. Now the Bill seeks to amend those provisions, namely, the provisions in section 26C. So this amendment which seeks to extend or limit the scope of transfer is altogether outside the scope of the Bill.

Mr. PRESIDENT: Is it your contention that section 26B should also be amended?

Mr. HUMAYUN KABIR: May I submit, Sir, that section 26B simply says "subject to the provisions of this Act, be capable of being transferred," etc., etc. Now, Sir, this Bill which the Hon'ble Minister has presented, has not yet become an Act, and it will become an Act if the Legislature only passes it and if this amendment which I have moved is accepted, it becomes part of the Act and it will be covered by section 26B "subject to the provisions of this Act." So I do not see how it, in any way, interferes with the motion or with the acceptance by the House of the amendment of the type I have moved.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Section 26C only lays down the manner of transfer.

Mr. NAZIRUDDIN AHMAD: Yes, there is no other limitation.

Mr. PRESIDENT: You have no amendment on section 26B?

Mr. HUMAYUN KABIR: No, Sir. Because it is not necessary, because it simply says "subject to the provisions of the Act——"

Mr. PRESIDENT: I hold that this amendment is out of order.

Mr. LALIT CHANDRA DAS: Sir, I beg to move that in clause 4 of the Bill, in sub-section (*5*) of proposed section 26C, after the words "share thereof transferred" occurring in line 7, the words "provided that there was no dispute as to the right before sale of the transferor in respect of the holding or portion or share thereof transferred" be inserted.

Sub-clause (*5*) of clause 4 of the amending Bill runs as follows: "The Court, Revenue officer or Registering officer, as the case may be, shall serve the notices provided in this section by registered post, and after receipt of such notice, the landlord or landlord's agent, as the case may be, shall not refuse to recognise the transferee as the tenant in respect of the holding or portion or share thereof transferred." Now, Sir, I want to add the words: "provided that there was no dispute as to the right before sale of the transferor in respect of the holding or

portion or share thereof transferred" after the above words. Then it will read as follows: "The Court, Revenue officer or Registering officer, as the case may be, shall serve the notices provided in this section by registered post, and after receipt of such notice, the landlord or landlord's agent, as the case may be, shall not refuse to recognise the transferee as the tenant in respect of the holding or portion or share thereof transferred, provided that there was no dispute as to the right before sale of the transferor in respect of the holding or portion or share thereof transferred nor omit to enter the transferee's name in the landlord's rent-roll in place of that of the transferor or where only a share or a portion of the transferor's interest has been transferred, along with the name of the transferor."

So far as sub-clause (*5*) of clause 4 is concerned, it has been taken for granted that the transferor in that case is a recorded tenant of the landlord. Now I can conceive of a case in which a transferor is not a recorded tenant of the landlord. For example, if A is the recorded tenant of a landlord and B, a person unrecorded, sells to C whose name is not in the landlord's *sherista*, will D, the landlord, be bound to recognise C, the purchaser, being a transferor from B? That is my point. Supposing A is a person who is a recorded tenant of a landlord. Now B sells to C. C's name does not appear in the landlord's *sherista*. Will D, the landlord, be bound to recognise C in that case? Therefore, I say the words "provided that there was no dispute as to the right before sale of the transferor in respect of the holding or portion or share thereof transferred" should be inserted. Such cases very frequently occur in the *mufassil*. My point is this: B is the sister of A. B sells one-third of her share of holding to C, but A denies that B has got any sort of share in the holding. A is the tenant whose name is recorded in the landlord's *sherista*. A asserts that B has not inherited the property from her father and that the holding is his self-acquired property. If that is the position and if B coming in as the sister of A claims that after all the holding belonged to their father and that she has a one-third share in the holding, what will happen? She sells her share to C. A does not at all admit the right of B to any share in the holding. Will the landlord in the circumstances be compelled to register the name of C in his *sherista* because he received a notice to that effect? Therefore I say a landlord may be compelled to register the name of a transferee in those cases only in which the transferor is a recorded tenant in the landlord's *sherista*.

But when the transferor is not a recorded tenant in the landlord's *sherista*, the landlord should not be compelled to register the name of the transferee. I say, Sir, it is a very necessary provision which should be added—provided that there was no dispute as to the right before sale of the transferor in respect of the holding or portion or share thereof transferred. I do not know whether I have been quite intelligible to my friends here. All that I say is, in those cases in

which one who is not a recorded tenant of the landlord and whose right is disputed by the man whose name appears in the landlord's *sheristu*, the landlord should not be compelled to register the transferee's name. There remains the dispute. Now, Sir, it will be a matter for enquiry. If the recorded tenant of his own will says that there is such a transfer by which B has already sold it to C, and B has no right to it—when a notice comes to the landlord to that effect, there is then a dispute and the landlord will not be bound to register the name of such a purchaser. I say, therefore, this is a very necessary amendment, namely, that the following words should be added:—

"Provided that there was no dispute as to the right before sale of the transferor in respect of the holding or portion or share thereof transferred."

Mr. PRESIDENT: Amendment moved that in clause 4 of the Bill, in sub-section (*5*) of proposed section 26C, after the words "share thereof transferred" occurring in line 7, the words "provided that there was no dispute as to the right before sale of the transferor in respect of the holding or portion or share thereof transferred" be inserted.

Mr. HUMAYUN KABIR: Sir, on the same point there is another amendment which may persuade Mr. Das to modify his amendment. It deals with the same question where the transferor is not a recorded tenant. May I, Sir, have your permission to move my amendment at this stage?

Mr. PRESIDENT: Yes.

Mr. HUMAYUN KABIR: I beg to move that in clause 4 in sub-section (*5*) of proposed section 26C, the two provisos be numbered as proviso (*i*) and proviso (*iii*), respectively, and between the two provisos so numbered the following be inserted as proviso (*ii*), namely:—

"(*ii*) Provided that where the transferor is not a recorded tenant of the holding or portion or share thereof transferred, the landlord may, after due enquiry from the recorded tenant and the transferor, withhold recognition from the transferee, if he is satisfied that at the time of the transfer, the transferor did not possess the interest transferred. The landlord shall forthwith inform the transferee in writing of such decision, and the transferee may within thirty days of receipt of such information, apply to the Collector for a direction to the landlord to recognise him as a tenant in the holding or portion or share thereof transferred, and the decision of

the Collector, after making such summary inquiry as he considers necessary shall be final and binding on the landlord until and unless the party aggrieved gets a contrary or modified decision from a Civil Court by instituting regular title suit."

Sir, the only difference between this amendment and that of Mr. Das is that Mr. Das wants that where the transferor is not a recorded tenant of the landlord, the transferee shall have no right at all, the transferee's right shall go by default. What I suggest is, that in such cases the landlord should not be compelled to recognise the right of the transferee. But in many cases the transferee may have paid the money in a *bona fide* belief that the transferor had actual rights in the land. Therefore, he should be given an opportunity of asking the landlord to recognise him. In the case of a dispute, the whole question should be referred to the Collector of the district whose decision, after due enquiry, shall be binding on both the landlord and the tenant. This will serve the purpose of Mr. Das and protect the landlord from recognising a transferee where the transferor has no right. On the other hand, it will have an additional advantage and it will also protect the transferee in those cases where he acted in a *bona fide* manner and paid his money to the transferor in the belief that the transferor had due rights.

I, therefore, move this amendment for the acceptance of the House.

Mr. PRESIDENT: The further amendment moved that in clause 4 in sub-section (*5*) of proposed section 26C, the two provisos be numbered as proviso (*i*) and proviso (*iii*), respectively, and between the two provisos so numbered the following be inserted as proviso (*ii*), namely:—

"(*ii*) Provided that where the transferor is not a recorded tenant of the holding or portion or share thereof transferred, the landlord may, after due enquiry from the recorded tenant and the transferor, withhold recognition from the transferee, if he is satisfied that at the time of the transfer, the transferor did not possess the interest transferred. The landlord shall forthwith inform the transferee in writing of such decision, and the transferee may within thirty days of receipt of such information, apply to the Collector for a direction to the landlord to recognise him as a tenant in the holding or portion or share thereof transferred, and the decision of the Collector, after making such summary inquiry as he considers necessary, shall be final and binding on the landlord until and unless the party aggrieved gets a contrary or modified decision from a Civil Court by instituting a regular title suit."

Mr. NAZIRUDDIN AHMAD: Sir, I rise to oppose both the amendments. The first amendment proposed by Mr. Lalit Chandra Das seeks to give an abitrary right to the landlord to refuse to record the transferee's name in his *sherista*. The pretext on which the landlord may refuse to recognise the transferee is the supposed existence of a "dispute" relating to the property. The amendment does not try to make it clear whether the dispute should be *bona fide*, or frivolous, or *mala fide* or imaginary. So it would place in the hands of the landlord absolute power to refuse to recognise the transferee. It would therefore nullify the salutary provision provided by the bill-clause.

With regard to the second amendment moved by Mr. Humayun Kabir, it introduces another kind of difficulty. Although these two amendments differ in detail, they are of the same nature in the matter of putting difficulties in the way of recognition of the transferee in the *sherista* of the landlord. The second amendment tries to provide that the landlord may send a notice to the Collector, and that there should be an enquiry, and a consequent expenditure on lawyers and in other ways. In any event the Collector's decision will not be final, but it will be open to revision by a civil court. So the tenant will not be very happy with the prospect of long litigation, and probably he may in the end get his name recorded but only when he will have spent his all and has been completely impoverished in the litigation. So the effect of this amendment would be to defeat the very object of the clause, viz., benefit to the tenants.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I also oppose the amendments. The object of the Government proposal is to do away with the landlord's transfer fee altogether. And let us not put further temptation in the way of the landlord, or give him additional opportunity of exacting landlord's transfer fee. Let us not cast a responsibility on him which no honest landlord will be in a position to discharge conscientiously, because he has not the trained staff. He should be asked to take upon himself the duties which should be discharged by the civil court. The landlord is really concerned with the recorded transfer, and it is not his duty to go and enquire whether there is any dispute or not. That will frustrate the object of allowing free right of transfer to occupancy raiyats.

Mr. PRESIDENT: The question before the House is that in clause 4 of the Bill, in sub-section (5) of proposed section 26C, after the words "share thereof transferred" occurring in line 7, the words "provided that there was no dispute as to the right before sale of the transferor in respect of the holding or portion or share thereof transferred" be inserted.

The motion was lost.

Mr. PRESIDENT: The question before the House is that in clause 4 in sub-section (*5*) of proposed section 26C, the two provisos be numbered as proviso (*i*) and proviso (*iii*), respectively, and between the two provisos so numbered the following be inserted as proviso (*ii*), namely:—

"(*ii*) Provided that where the transfer is not a recorded tenant of the holding or portion or share thereof transferred, the landlord may, after due enquiry from the recorded tenant and the transferor, withhold recognition from the transferee, if he is satisfied that at the time of the transfer, the transferor did not possess the interest transferred. The landlord shall forthwith inform the transferee in writing of such decision, and the transferee may within thirty days of receipt of such information, apply to the Collector for a direction to the landlord to recognise him as a tenant in the holding or portion or share thereof transferred, and the decision of the Collector, after making such summary inquiry as he considers necessary, shall be final and binding on the landlord until and unless the party aggrieved gets a contrary or modified decision from a Civil Court by instituting a regular title suit."

The motion was lost.

Mr. LALIT CHANDRA DAS: Sir, I beg to move that in clause 4 of the Bill, in the first proviso to sub-section (*5*) of proposed section 26C, for the word "recognition" in line 1, the words "acceptance of the landlord's notice provided in this section" be substituted.

Sir, it is more or less a verbal alteration. In the proviso, the words are "provided that such recognition shall not operate as admission of the amount of rent or the area or any incident of such occupancy holding other than the existence of a right of occupancy therein or be deemed to constitute an express consent of the landlord to the division of the holding or to the distribution of the rent payable in respect thereof".

Sir, recognition is the result of the notice. So I should rather think that in place of the word "recognition" the proper expression should be "acceptance of the landlord's notice provided in this section". If this is substituted, it would read "provided that such acceptance of the landlord's notice provided in this section shall not operate as admission of the amount of rent or any area or any incident," and so on and so forth. This, Sir, is merely a verbal alteration, and I hope Mr. Nazir-uddin Ahmad will not oppose it.

Mr. PRESIDENT: Motion moved that in clause 4 of the Bill, in the first proviso to sub-section (*5*) of proposed section 26C, for the

word "recognition" in line 1, the words "acceptance of the landlord's notice provided in this section" be substituted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I oppose this amendment, because the word in sub-clause (5) is "recognise". Refusing to recognise the transferee and the acceptance of the notice fee certainly places on the landlord some responsibility and some duty, and the duty is recognition. So, he cannot have it both ways. Having accepted it, he has got to perform certain duty, and that duty is not acceptance but recognition.

Mr. PRESIDENT: The question before the House is that in clause 4 of the Bill, in the first proviso to sub-section (5) of proposed section 26C, for the word "recognition" in line 1, the words "acceptance of the landlord's notice provided in this section" be substituted.

The motion was negatived.

Mr. NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 4 of the Bill, in lines 5 and 6 of the second proviso to sub-section (5) of the proposed section 26C, for the words "deposit with that authority" the following words be substituted, namely:—

> "deposit with the authority before whom the appropriate suit or proceeding was first initiated."

Mr. HAMIDUL HUQ CHOWDHURY: Is it consequential or technical?

Mr. NAZIRUDDIN AHMAD: It is neither consequential nor technical nor anything of the sort, but it effects an improvement in the Bill. The proviso says that if a transfer, on which landlord's record has been corrected, is set aside by any tribunal or authority, then a fee for notice on the landlord should be filed before that authority. It may be that a transfer on which the name has already been registered in the landlord's *sherista* might be set aside in the court of first instance, or it may be set aside in appeal, or in the High Court. It may be set aside in the Federal Court or even in the Privy Council. According to the proviso in the bill-clause it would be necessary to file the process-fee and notice before the authority which finally sets aside or modifies the transfer. I beg to submit, Sir, that it will be extremely inconvenient for people to go to the highest court where the deed has been set aside or modified. In these circumstances, as in cases of execution or other things consequential upon the passing of the judgment of a higher court, it should be done in the court in the first instance for the sake of convenience. The amendment simply provides that the notice fee should be filed in the lowest court, namely, in the court where the proceeding was first initiated. It is for the sake of convenience of all concerned that I propose the amendment.

Mr. PRESIDENT: Motion moved that in clause 4 of the Bill, in lines 5 and 6 of the second proviso to sub-section (*5*) of the proposed section 26C, for the words "deposit with that authority" the following words be substituted, namely:—

"deposit with the authority before whom the appropriate suit or proceeding was first initiated".

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, Government are prepared to accept this amendment.

Mr. PRESIDENT: The question before the House is that in clause 4 of the Bill, in lines 5 and 6 of the second proviso to sub-section (*5*) of the proposed section 26C, for the words "deposit with that authority" the following words be substituted, namely:—

"deposit with the authority before whom the appropriate suit or proceeding was first initiated".

The motion was adopted.

Mr. PRESIDENT: The question before the House is that clause 4, as amended, stand part of the Bill.

The motion was agreed to.

Clause 5.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, I beg to move that for clause 5 of the Bill, the following be substituted, namely:—

"5. In section 26D of the said Act—

(*1*) for the words 'twenty *per cent.*', 'ten *per cent.*', and 'five *per cent.*', wherever they occur, the words 'ten *per cent.*', 'five *per cent.*' and 'two and half *per cent.*', shall be substituted, respectively.

(*2*) After the third proviso, the following new provisos shall be inserted, namely:—

'Provided that all arrears of rent in respect of the land transferred has been previously paid or deposited with the landlord's transfer fee:

Provided also that in the case of a transfer from one cultivator to another cultivator, the landlord's transfer fee shall amount to one rupee only.'

(3) After Explanation 2, the following new Explanation shall be added, namely:—

'*Explanation 3.*—Cultivator means a person whose principal occupation in life is agriculture and who cultivates land wholly or partly by himself, members of his family or by hired labour'.''

Sir, I know that the House is not in a mood to accept an amendment of this nature, however reasonable; but, although the task which I have taken upon myself is an impossible task from that point of view, there are certain principles involved in my amendment which, I think, I should very clearly place before the House. I was surprised when the Hon'ble Revenue Minister stood up and said that this right was a statutory right and therefore it could be brushed aside——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Did I say that?

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: The right of *sclami*, you did say, was a statutory right.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am sorry you have misunderstood me.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I hope your speech has been correctly reported. When you will read it, you will be surprised to find that what I have said, is true.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Unless I was off my head.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I distinctly heard the Revenue Minister say that it was a statutory right, but, Sir——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I hope the Maharaja Bahadur will be responsible for the speech he is making now on a wrong presumption.

Mr. PRESIDENT: Every hon'ble member is responsible for the speech he makes and you will have in turn the occasion to oppose or contradict any statement that he makes now.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Anyhow, Sir, he has no right to attribute something to me which I did not say.

Mr. PRESIDENT: It is not necessary to interrupt him now.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I do take the responsibility on my shoulders, and if need be, I shall prove it up to the hilt; the Revenue Minister did say so.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am not in this respect as foolish as many zemindars are.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I could not follow the Hon'ble Minister. Will he speak up? Wisdom is not his monopoly.

Now whatever that may be, the Revenue Minister had no justification in saying that it was a mere statutory right and that therefore it could be brushed aside. Even if it is a statutory right it must be admitted that it was based on the proprietary right of the landholders in the soil. In fact, that right was conceded to them in lieu of the right of transfer of a holding or any part thereof which was conceded to the tenants. More or less it was a compensation for the incidental benefit given to the tenant and I think justice demands that if that subsidiary right is taken away, then the collateral benefit or privilege, which was granted to the tenants should also be abolished. It is impossible that the right that was conceded to the tenants in respect of their holdings only in lieu of their paying compensation should be retained intact without payment of the same. I have every sympathy with the real tillers of the soil and I realise that they are now passing through a critical time. It is our duty to sympathise with them and to help them as much as we can, but I think my friend opposite, the Khan Kahadur, should bear in mind what fell from the lips of Sir Stuart Bailey when he introduced the Bengal Tenancy (Amendment) Bill before the Supreme Legislative Council in 1883. He said "I have to oppose the interests of the zeminders in the interest of a more helpless class, but this line of policy can alone be justified without vilifying the zeminders. I have no doubt that as a class they are just and their liberality and usefulness are great". I think that the representatives of the tenants would very kindly see that the zemindars are not unnecessarily subjected to gross vilifications. We may have our shortcomings, we may have our defects, but nevertheless it is undesirable on the part of a representative of the tenants to vilify the landholding community in season and out of season. I was simply asking the House to see that the zemindars are not unnecessarily put to any hardship in obtaining their legitimate dues as proprietors of the soil.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, may I rise on a point of order at this stage? Now clause 4 has already been passed, i.e., section 26C has been passed without the "landlord's fee".

Now section 26D to which the Maharaja Bahadur is now moving this amendment, only deals with the amount of "transfer fee"; so if section 26C has been accepted by the House without transfer fee, the scope of this amendment (on section 26D) should deal with only the amount of transfer fee. So this amendment cannot come in.

Mr. PRESIDENT: Will the Maharaja Bahadur like to explain, when the whole motion for the retention of transfer fee has gone, how these matters which are consequential to that, arise? The House has already passed that there should be no "transfer fee" and the consequential amendment will naturally be for the deletion of the whole clause 26D.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, I wish to know what has been actually deleted.

Mr. PRESIDENT: By the acceptance of the amended clause 4 the House has accepted the principle of the abolition of transfer fee. Now, the section 26D deals also with transfer fee. After the acceptance of the previous motion all amendments dealing with transfer fee fall through.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I think the Hon'ble Revenue Minister has raised a very pertinent point. My grievance is that in that case this amendment should have been given the chance to be moved at an earlier stage, but however I do not press for it now.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Now, Sir, in my turn I am rising on a point of personal explanation, because, Sir, a little while ago as directed by you, I thought that at a later stage in opposing the Maharaja's amendment I would be able to explain the point raised by him inasmuch as he tried to impute something to me.

Mr. PRESIDENT: It is not necessary for you at this stage to make any speech; because the amendment is not going to be moved as it is out of order. But now what the Maharaja complains is that these amendments should have been taken up earlier at the appropriate places. I see there is some force in it.

The question before the House is that clause 5 stand part of the Bill.

The motion was carried.

Clause 6.

Mr. PRESIDENT: The question before the House is that clause 6 stand part of the Bill.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: On a point of order, Sir. I submit that the provision in clause 6 of the Bill which gives the right of pre-emption to co-sharer tenant is *ultra vires* of section 299 (*3*) of the Government of India Act, 1935, inasmuch as it does not come within the four corners of the Governor's sanction with which the Bill was originally introduced in the Assembly. Right of pre-emption is inseparable from ownership of land. It is an important right or privilege which is corelated with proprietary right in the soil which belongs to the landholders in the terms of the Permanent Settlement. The transferance of the right from the landholders to the co-sharer tenant, therefore, alters the character of the Permanent Settlement. I submit that it is also not within the scope of the prefatory paragraph of the Bill generally known as the "title," which describes its object and scope. The object of the Bill is definitely stated to be "to lessen the burden on the cultivator and not to attempt a radical reform of the existing system of land tenure."

My point is that sanction was obtained from the Governor for the original Bill, but it is very clearly laid down in the Government of India Act, 1935, that when an amendment is not within the scope of the Bill and is not covered by the Governor's sanction previously obtained, fresh sanction with reference to that particular amendment is necessary. I would ask the Hon'ble Revenue Minister to state if he has obtained a fresh sanction from the Governor in respect of the amendment in question. If he has done so, I shall withdraw my point of order.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir, I did.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: In that case I do not press my point of order. Sir, I beg to move that clause 6 of the Bill be omitted.

The arguments that I should advance in favour of this amendment have already been adduced by me on several occasions. I hold that the right of pre-emption is a very important right in land and goes hand in hand with the proprietary right in the soil. This right was given in lieu of the right to transfer a holding or any portion thereof which was conceded to the tenants in 1928. It was given to us as a statutory right by way of compensation for the right that we had conceded to the tenants. I have already said, Sir, that it is not possible to obliterate a right which provides for compensation in lieu of certain

rights conceded to the tenants, unless and until collateral privileges conceded to the tenants, were also abolished and the right of transferability was restored to us.

Sir, I would appeal to the House to consider as to whether this right should be taken away from the landlords and given to the tenants, although there is evidence on record to show that this right was given to us in lieu of certain incidental benefits conferred on the tenants.

Mr. PRESIDENT: Motion moved that clause 6 of the Bill be omitted.

Mr. NAZIRUDDIN AHMAD: Sir, the right of pre-emption was a new right conceded to the landlords in order to safeguard the adequacy of their *selami* and it was granted in 1928. So, this was a creation of the Act of 1928, and as the Hon'ble Revenue Minister said previously, we need not go to a period prior to 1928 to trace the history of this question.

The so-called claim of the landlords that they got this right by way of compensation by the Act of 1928, cannot be substantiated. The right of *selami* has been done away with. Therefore, Sir, I submit that the question of the right of pre-emption which was a corollary to the *selami*, would fall through along with it.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir I have an identical amendment. May I have your permission to move it at this stage?

Mr. PRESIDENT: You can speak on the amendment of the Maharaja of Santosh.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, as the Maharaja has already said, it is a very valuable right which was conceded to the landlords by the amending Act of 1928. Mr. Nazir-uddin Ahmad said that the idea of inserting this section in the amending Bill, referred to above, was to prevent fraudulent transactions by tenants in which the holdings were generally undervalued. It is to safeguard this right that the clause was inserted in 1928, but, Sir, that was not the only reason why the said clause was incorporated in the amending Act of 1928. It was inserted also for the purpose of protecting the interests of the *jotedars* and the raiyats and to prevent unrestricted transfer of land. Before the amending Act of 1928, *jote* right was not transferable. The 1928 measure secured this right to the tenants with the result that occupancy right became transferable, and a large number of *jotes* have since passed into the hands of moneylenders. If the Hon'ble Minister will kindly take the trouble of

having an enquiry made in his own district, he will be staggered, to find the number of *jotes* transferred since the enactment of 1928.

Now, with regard to the question of the right of pre-emption, as I said on a previous occasion, it is only when a tenant applies to his landlord to exercise this valuable right that the landlord agrees to do it not for his own benefit but for that of his tenant. I know, Sir, of instances where the occupany rights of tenants were transferred to outsiders, i.e., to non-cultivators, and in such cases only that the landlords came forward to protect the tenants against the intruder.

Sir, I have nothing further to add. The arguments in favour of the deletion of this clause have been ably put forward by the mover and other members who have spoken in support of the pre-emption clause to-day.

With these few words, I support the amendment of the Maharaja of Santosh.

Khan Bahadur MOHAMMAD IBRAHIM addressed the House in Bengali. The following is the English translation of his speech:—

Mr. President, Sir, the zemindar's right of pre-emption was never in existence either before or after the Decennial Settlement. It is a unique creation of the Bengal Tenancy (Amendment) Act of 1928. I shall give you an idea of the amount of untruth and the extent of division in our ranks that followed in its train. In the event of a person purchasing a *jote*, his anti-party, if any, seeks the protection of the zemindar, pays all the expenses to him and causes the *jote* to be placed under his possession by inducing him to take advantage of his right of pre-emption. Next, it is the anti-party in whose favour the land is settled. Thus, this form of purchase has been the cause of too much litigation. If this right of pre-emption is allowed to exist, it will lead to the perpetration of wrongs and injustice in a large number of cases. One will be put to an expenditure of Rs. 500 for a piece of land worth Rs. 10 only. It will unnecessarily give a filip to falsehood. Hence, this right of pre-emption can on no account be justified. It provides the means of corrupting the simple hearts of our peasantry. Such being the case, we can by no means justify it.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, so far as the underlying principle of the right of pre-emption, is concerned, myself and my esteemed friend the Maharaja of Santosh are in agreement. Firstly, this right was conceded to the landlord in 1928 to give him the choice of tenants. It was a corollary to the right of transferability granted to occupancy raiyats; and secondly, it was given to safeguard the landlord's right to transfer fee, so that there might not be any under-valuation. Whether it is the part of the original proprietary right of the landlord or not is not the point at issue. But as

I said in connection with the landlord's right to transfer fee, I repeat that it is unnecessary to go before 1928. The 1928 Act certainly conferred a definite statutory right on the landlords and by the bill-clause that right is going to be taken away. The Bill, as amended by the Legislative Assembly, proposes to transfer that right of pre-emption from the landlord to the co-sharer tenant. The co-sharer tenants may be put into very serious difficulties if strangers come in and purchase the family property. So, it is in the interest of the tenants that family property should remain with the members of the family. It is certainly a valuable right that is proposed to be conferred on the co-sharer tenant.

The Maharaja Bahadur suggests that it should be repealed altogether. It will result in maintaining the *status quo*, namely, that the landlords will only have the right of pre-emption, but not the co-sharer tenants. If the right of pre-emption is retained, it is liable to be abused and the right of transferability without any payment of *selami* that is now proposed to be conferred on the occupancy raiyat will be completely frustrated, because once you give the right of pre-emption to the landlord, he can always threaten to exercise that right of pre-emption and exact *selami* from the transferee of the occupancy holding. On these grounds I oppose the Maharaja's amendment.

Mr. BANKIM CHANDRA DATTA: Sir, we on this side of the House oppose the amendment of the Maharaja. The reason is quite clear. According to us although some of the provisions of the Bill are not quite in keeping or consistent with its object, yet if we pass this amendment the result will be to add to the burden of the cultivators which we do not propose to do. Therefore, Sir, we oppose the amendment of the Maharaja.

Mr. PRESIDENT: The question before the House is that clause 6 of the Bill be omitted.

The motion was lost.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, I beg to move that in clause 6, proposed section 26F to sub-section (*1*), the following new provisos be added, namely:—

> "Provided that where a transfer is made in a manner so as to cause injury to the legitimate interests of the landholder or a co-sharer tenant or involve, or create conditions for, the breach of the peace and tranquillity of the locality, the immediate landlord shall, notwithstanding the limitations imposed, have the power to transfer to himself the transferred portion or share within the said period in the manner prescribed hereunder after application to the civil court having proper jurisdiction:

Provided that where the transfer is of a portion or share of a homestead land made to a person following a different religious faith from that of the transferrer, or where the transfer is of a portion or share of a holding which is situated within one hundred and fifty yards of a public place of worship, the immediate landlord of the holding or the transferred portion or share may, as provided in sub-section (*1*), apply to the court that the transferred portion or share of the holding shall be transferred to himself, and thereupon sub-sections (*2*) to (*7*) will apply:

Provided also that where the transferrer or transferee or both are defaulters the immediate landlord shall, notwithstanding the limitation in this section, have the power to transfer to himself the transferred portion or share within the said period in the prescribed manner after application to the civil court having proper jurisdiction."

Sir, the amendment has been very elaborately drawn up. No further argument is necessary. If all the different clauses of the amendment are carefully gone through, the fairness of my proposal, I hope, will be appreciated by the House. I, therefore, do not wish to take up the time of the House. I simply commend my proposition to the acceptance of the House.

Mr. PRESIDENT: Motion moved that in clause 6, proposed section 26F to sub-section (*1*) the following new provisos be added, namely:—

"Provided that where a transfer is made in a manner so as to cause injury to the legitimate interests of the landholder or a co-sharer tenant or involve, or create conditions for, the breach of the peace and tranquillity of the locality, the immediate landlord shall, notwithstanding the limitations imposed, have the power to transfer to himself the transferred portion or share within the said period in the manner prescribed hereunder after application to the civil court having proper jurisdiction:

Provided that where the transfer is of a portion or share of a homestead land made to a person following a different religious faith from that of the transferrer, or where the transfer is of a portion or share of a holding which is situated within one hundred and fifty yards of a public place of worship, the immediate landlord of the holding or the transferred portion or share may, as provided in sub-section (*1*), apply to the court that the transferred portion or share of the holding shall be transferred to himself, and thereupon sub-sections (*2*) to (*7*) will apply:

Provided also that where the transferrer or transferee or both are defaulters the immediate landlord shall, notwithstanding the limitation in this section, have the power to transfer to himself the transferred portion or share within the said period in the prescribed manner after application to the civil court having proper jurisdiction."

Mr. NAZIRUDDIN AHMAD: Sir, the amendment is long but my objection will be short. These three provisos give power to the landlord which may properly be enjoyed by three well-known Dictators of the world. The first proviso would give power to the landlord which may be enjoyed by Herr Hitler of Germany; that is if there is a breach of peace, or a likelihood of a breach of peace, or if the landlord thinks that there is likelihood of a breach of peace, he can come in and take possession of the land, as Hitler has done in the case of Austria. The second proviso gives power to the landlord which is enjoyed by Signieur Mussolini, that is if a purchase is made by a member of a different faith of a holding which is situated within one hundred and fifty yards of a public place of worship, he can come in and take possession thereof as Mussolini has done in the case of Abyssinia. I submit, Sir, that it is an extremely arbitrary power. Then there is the third proviso which can be enjoyed by the other Dictator, Mr. Stalin of Soviet Russia. It is that if there is a default in rent the landlord may come in and take possession of the holding. These powers can only be enjoyed by irresponsible dictators but these powers cannot be given to any one in the civilized atmosphere of India.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. As regards the first portion of the amendment I do not think the landlords will be wise enough to take upon themselves this very great responsibility. It might involve them in difficulties which, I am sure, on careful consideration they would like to avoid.

Secondly, the immediate landlord himself may not be a person professing the same religion as the transferor. So it does not improve matters if the immediate landlord pre-empts by exercising his right of pre-emption. The bill-clause proposes to give the right of pre-emption to the co-sharer tenant. So if the co-sharer tenant finds that he is going to be put into great inconvenience by a portion of the holding being transferred to a person professing a different religion, he can exercise the right of pre-emption, and avoid the danger. Where there is no co-sharer, I think half the difficulty disappears automatically, because the general law of the land is, I think, wide enough and effective enough to prevent breach of the peace and the landlords need not take upon themselves the duty of the Police which is now performed by Government.

Thirdly, the Maharaja Bahadur suggests that if the transferor or transferee are defaulters, the immediate landlord should have the right of exercising the right of pre-emption. In that case, there would be no transfer of occupancy holdings by any tenant to anybody, because there is hardly any tenant who is not a defaulter or who is not in arrears. What the landlord can claim is the arrears of rent and not the holding. The holding is often more valuable than the arrears due. In some cases the holdings are sold for paying off the debts either to money-lenders or to landlords. The amendment proposed will impose a restriction which should be very undesirable and I do not think that will improve the relation between the landlords and the tenants. The more the landlords try to take possession of the tenants' lands, the more the feeling between the two communities is likely to be embittered. So, I oppose this amendment.

Mr. PRESIDENT: The question before the House is that in clause 6, proposed section 26F to sub-section (*1*), the following new provisos be added, namely:—

"Provided that where a transfer is made in a manner so as to cause injury to the legitimate interests of the landholder or a co-sharer tenant or involve, or create conditions for, the breach of the peace and tranquillity of the locality, the immediate landlord shall, notwithstanding the limitations imposed, have the power to transfer to himself the transferred portion or share within the said period in the manner prescribed hereunder after application to the civil court having proper jurisdiction:

Provided that where the transfer is of a portion or share of a homestead land made to a person following a different religious faith from that of the transferrer, or where the transfer is of a portion or share of a holding which is situated within one hundred and fifty yards of a public place of worship, the immediate landlord of the holding or the transferred portion or share may, as provided in sub-section (*1*), apply to the court that the transferred portion or share of the holding shall be transferred to himself, and thereupon sub-sections (*2*) to (*7*) will apply:

Provided also that where the transferor or transferee or both are defaulters the immediate landlord shall, notwithstanding the limitation in this section, have the power to transfer to himself the transferred portion or share within the said period in the prescribed manner after application to the civil court having proper jurisdiction."

The motion was lost.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: May I with your permission ask a short question to the Hon'ble Minister?

Mr. PRESIDENT: Yes.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: It has been provided that when a particular holding or any portion thereof is transferred by the recognised tenant, if there is a co-sharer tenant, he will have an opportunity to exercise the right of pre-emption if he so desires; and when he does not exercise that right, the immediate landlord will have an opportunity to do so. What would happen in a case where there is no co-sharer tenant and the holding or any portion thereof has been transferred? Would the chance be given to the immediate landlord to exercise his right of pre-emption?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I believe, that was not the idea of the Select Committee. The Select Committee wanted to confine it to cases where there are co-sharers. The clause was introduced by the Select Committee.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Or by the Assembly?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes; by the Assembly. No right of pre-emption has been given to the landlords; he has been given only the residuary right of pre-emption.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: What do you mean by residuary right?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: When the right is not exercised by the co-sharer tenant, then and then only the landlord comes in.

Mr. PRESIDENT: The opinion of the Revenue Minister will not bind the court. The court will have to interpret it.

Rai BROJENDRA MOHAN MAITRA Bahadur: Sir, I beg to move that in clause 6 of the Bill in sub-section (*1*) of the proposed section 26F, for clause (*b*) the following be substituted, namely:—

"(*b*) a transfer by exchange, lease or partition, and a transfer by bequest or gift (including *heba* but excluding *heba-bil-ewaz* for any pecuniary consideration) in favour of the husband or wife of the testator or the donor or any relation by

consanguinity within three degrees of such testator or donor.

Explanation.—A relation by consanguinity shall, for the purposes of this section, include a son adopted under the Hindu Law."

Sir, I beg to point out that the word "of" after the word "donor" in line 4 of the printed amendment should be "or". There has been a printing mistake. In this amending Bill, Sir, exception is made in the case of a transfer by bequest, exchange, lease, partition or gift (including *heba* but excluding *heba-bil-ewaz* for any pecuniary consideration) other than in favour of the donor's wife. I have restricted this free bequest to a certain extent by my amendment. So I commend the motion to the acceptance of the House.

Mr. PRESIDENT: Motion moved that in clause 6 of the Bill in sub-section (*1*) of the proposed section 26F for the words "for the said portion or share to be transferred to himself or themselves" occurring in lines 18 and 19, the following be substituted, namely:—

"(*b*) a transfer by exchange, lease or partition and a transfer by bequest or gift (including *heba* but excluding *heba-bil-ewaz* for any pecuniary consideration) in favour of the husband or wife of the testator or the donor or any relation by consanguinity within three degrees of such testator or donor.

Explanation.—A relation by consanguinity shall, for the purposes of this section, include a son adopted under the Hindu Law."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Government are prepared to accept this amendment, but I do not know if the Explanation is necessary....., namely, "a relation by consanguinity shall for the purposes of this section, include a son adopted under the Hindu Law". But, perhaps, there is no harm.

Mr. PRESIDENT: The question before the House is that in clause 6 of the Bill in sub-section (*1*) of the proposed section 26F, for clause (*b*) the following be substituted, namely:—

"(*b*) a transfer by exchange, lease or partition and a transfer by bequest or gift (including *heba* but excluding *heba-bil-ewaz* for any pecuniary consideration) in favour of the husband or wife of the testator or the donor or any relation by consanguinity within three degrees of such testator or donor.

Explanation.—A relation by consanguinity shall, for the purposes of this section, include a son adopted under the Hindu Law."

The motion was agreed to.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Congratulations!

Mr. NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 6 of the Bill in sub-section (*1*) of the proposed section 26F for the words "for the said portion or share to be transferred to himself or themselves" occurring in lines 18 and 19, the following be substituted, namely:—

"for being substituted in the place of the transferee in respect of the portion or share transferred."

Mr. PRESIDENT: Motion moved that in clause 6 of the Bill in sub-section (*1*) of the proposed section 26F, for the words "for the said portion or share to be transferred to himself or themselves" occurring in lines 18 and 19, the following be substituted, namely:—

"for being substituted in the place of the transferee in respect of the portion or share transferred."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the effect of this amendment is that it will give the co-sharer tenant the right to exercise the right of pre-emption with regard to the share of property transferred, which will be unfair because that will depreciate the value of the balance of the property. The bill-clause gives power to the court to decide which portion of a holding may go to a particular co-sharer according to equity. So I think in a matter where there are such complications we must leave it to the discretion of the court and not give a free right to a co-sharer tenant to pick and choose.

Mr. HAMIDUL HUQ CHOWDHURY: On a point of order, Sir: Is it fair on the part of the Hon'ble Minister to oppose the motion after having made the hon'ble member move it?

Mr. PRESIDENT: The question before the House is that in clause 6 of the Bill in sub-section (*1*) of the proposed section 26F for the words "for the said portion or share to be transferred to himself or themselves" occurring in lines 18 and 19, the following be substituted, namely:—

"for being substituted in the place of the transferee in respect of the portion or share transferred."

The motion was lost.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that in clause 6 of the Bill, in the proposed section 26F, for sub-sections (*2*), (*3*), (*4*) and (*5*), the following sub-sections be substituted, namely:—

"(*2*) The applicant or applicants shall at the time of making the application—

(*a*) deposit in court the amount of the consideration money or the value of the transferred portion or share of the holding as stated in the said notice, together with compensation at the rate of ten *per centum* of such amount;

(*b*) state in the application the names, description and addresses of all persons having share or interest in the property sold; and

(*c*) file such notices and process fees as may be prescribed for serving notices on persons mentioned in clause (*b*).

(*3*) The court shall fix a date for the persons mentioned in clause (*2*) (*b*) to appear and to state whether they are desirous of exercising the option of pre-emption in respect of the property transferred and to mention the amount of money, if any, which is owing to them, in respect thereof. The transferee shall also state on that date the amount of any money which he may have paid in respect of rent or in annulling incumbrances on the property since the date of the transfer.

(*4*) The court shall then, on hearing the parties and considering such evidence as they may adduce, adjudicate their respective claims and pass an order allowing such co-sharer or co-sharers to exercise the option of pre-emption on deposit of such amount within such period as the court may direct.

(*5*) If the deposit is made within that period or within any period extended by the court, it shall make an order that the deposit shall be paid to the transferee or to such other person as the court may think equitable."

Now, Sir, my amendment does not contemplate any deviation from the principle which we find in the bill-clause itself. What I have proposed is to simplify matters and with your permission I shall place some salient points in favour of my amendment. In the bill-clause which has been taken from the old section of the Act of 1928, we find that the procedure laid down there is somewhat cumbrous and it is also not fair to the co-sharers who may choose to exercise their right of pre-emption. In clause 2 of the Bill there is provision of deposit and the wording of that clause 2 is that the application shall be dismissed unless the applicant or applicants at the time of making it, deposit in court the amount of the consideration money or the value of the transferred portion or share of the holding, as stated in the said notice,

together with compensation at the rate of ten *per centum* of such amount. What I have proposed is that in clause 2 the applicant or applicants shall at the time of making the application deposit in court the amount of consideration money. My language is almost the same as we find in clause 2. But difference is that I have provided that in the application, the applicant has to state the names, description and addresses of all persons having shares or interest in the properties sold. We find that in clause 6, sub-clause (*4*) (*a*), there is an opportunity of other co-sharers coming in at a late stage. But there may be some difficulties. According to the bill-clause, in the first instance after the application is made by an applicant, the transferee will be called upon to appear and state if he has paid any amount towards rent or in annulling any encumbrances on the property. Then the court will call upon the applicant to pay the amount thus paid by the transferee. And then there is the provision of other co-sharers coming in and putting in their pleas. In order to simplify matters I have provided that in the application if a co-sharer wants to exercise his right of pre-emption, he should state the names, description and addresses of all persons having a share and interest in the property. So there will be an opportunity for all the co-sharers to come in and file their applications, and the court will have the opportunity of adjudicating at one and the same time the claims of all the claimants and then to decide as to who should pay what amount. This would simplify matters, and with this end in view I have made verbal alterations in sub-clauses (*2*), (*3*), (*4*) and (*5*) of clause 6. As a matter of fact, my amendment does not intend to make any alteration in the principle which we find in the Bill. But I believe that if my amendment is accepted, this will simplify the procedure and all the co-sharers will have equal opportunity of coming in and putting in their claims. We find that my friend Mr. Naziruddin Ahmad has also given notice of amendments to practically all the sub-clauses. With some of his amendments I am quite in agreement. So I would request my hon'ble friend to go through my amendment and if he can see his way to accept it, I hope there will not be much difficulty in my amendment being accepted by the House.

Mr. PRESIDENT: Motion moved that in clause 6 of the Bill, in the proposed section 26F, for sub-sections (*2*), (*3*), (*4*) and (*5*), the following sub-sections be substituted, namely:—

"(*2*) The applicant or applicants shall at the time of making the application—

(*a*) deposit in court the amount of the consideration money or the value of the transferred portion or share of the holding as stated in the said notice, together with compensation at the rate of ten per centum of such amount;

(*b*) state in the application the names, description and addresses of all persons having share or interest in the property sold; and

(*c*) file such notices and process fees as may be prescribed for serving notices on persons mentioned in clause (*b*).

(*3*) The court shall fix a date for the persons mentioned in clause (*2*) (*b*) to appear and to state whether they are desirous of exercising the option of pre-emption in respect of the property transferred and to mention the amount of money, if any, which is owing to them, in respect thereof. The transferee shall also state on that date the amount of any money which he may have paid in respect of rent or in annulling incumbrances on the property since the date of the transfer.

(*4*) The court shall then, on hearing the parties and considering such evidence as they may adduce, adjudicate their respective claims and pass an order allowing such co-sharer or co-sharers to exercise the option of pre-emption on deposit of such amount within such period as the court may direct.

(*5*) If the deposit is made within that period or within any period extended by the court, it shall make an order that the deposit shall be paid to the transferee or to such other person as the court may think equitable."

Mr. Naziruddin Ahmad, do you like to move any of your amendments?

Mr. NAZIRUDDIN AHMAD: No, Sir.

Mr. KADER BAKSH: Mr. President, Sir, the amendment proposed by Rai Sahib Jatindra Mohan Sen is of such a complicated nature that I oppose it simply on the ground of its complication. It proposes to bring people after serving notices on them, adjudicating their claims and allowing second class or third class co-sharers who are willing to deposit money to exercise the option of pre-emption. All these complications are absolutely unwarranted and should not be gone through. On this ground only I oppose this amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. Clause 6 of the Bill is based on the existing section 26F. That section has worked well so far as the exercise of the right of pre-emption is concerned, and I do not think there is any reason to depart from the existing section. Here the hon'ble member, I understand, is trying to introduce a second notice, which to my mind is quite unnecessary and will only involve additional expenditure.

Now, as regards the form of the notice he has suggested, I think that can come within the form prescribed in clause 4(*1*)(*i*). There it can easily be prescribed as to what should be the form of the notice, and it need not be stated in the body of the Bill.

With these words, Sir, I oppose the amendment.

Mr. PRESIDENT: The question before the House is that in clause 6 of the Bill, in the proposed section 26F, for sub-sections (*2*), (*3*), (*4*) and (*5*), the following sub-sections be substituted, namely:—

"(*2*) The applicant or applicants shall at the time of making the application—

(*a*) deposit in court the amount of the consideration money or the value of the transferred portion or share of the holding as stated in the said notice, together with compensation at the rate of ten *per centum* of such amount;

(*b*) state in the application the names, description and addresses of all persons having share or interest in the property sold; and

(*c*) file such notices and process fees as may be prescribed for serving notices on persons mentioned in clause (*b*).

(*3*) The court shall fix a date for the persons mentioned in clause (*2*)(*b*) to appear and to state whether they are desirous of exercising the option of pre-emption in respect of the property transferred and to mention the amount of money, if any, which is owing to them, in respect thereof. The transferee shall also state on that date the amount of any money which he may have paid in respect of rent or in annulling incumbrances on the property since the date of the transfer.

(*4*) The court shall then, on hearing the parties and considering such evidence as they may adduce, adjudicate their respective claims and pass an order allowing such co-sharer or co-sharers to exercise the option of pre-emption on deposit of such amount within such period as the court may direct.

(*5*) If the deposit is made within that period or within any period extended by the court, it shall make an order that the deposit shall be paid to the transferee or to such other person as the court may think equitable."

The motion was lost.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that in clause 6 of the Bill, in the proposed section 26F, sub-sections (*5c*) and (*5d*) be omitted.

Now, it appears the section as amended by the Select Committee is blowing hot and cold in the same breath. The power of pre-emption was withdrawn with one hand, and it was again granted by the other hand. The question is a very simple one. The right of pre-emption in the case of a co-sharer does stand on a different ground altogether. There is an equitable principle behind that claim that when a particular property in which one is interested as a co-sharer is being transferred to a stranger, the co-sharer may come and say "let me have the first choice of getting this share," but in the case of the landlords, there is absolutely no equitable ground in support of their claim. This right of pre-emption was introduced in the amended Act of 1928, and that was introduced only as a check against any sort of fraudulent under-valuation in the conveyance, and when the provision as to the landlords' fee has been altogether omitted, under-valuation or over-valuation is altogether immaterial, and after the repeal of these amendments, I do not find what possible reason there could be for giving that right of pre-emption to the landlord. Indeed, this right of pre-emption was only a safeguard enacted for the benefit of the landlords so that landlords might not be deprived of their legitimate share of the landlord's fee by fraudulent under-valuation in the sale deeds or in the sale transactions. But when the right of receiving the landlord's fee has been repealed altogether, I would say that there is absolutely no reason for retention of any right of pre-emption in favour of the landlords, and I commend my amendment to the House for repealing the sub-clause giving the right of pre-emption to the landlords.

Mr. PRESIDENT: Motion moved that in clause 6 of the Bill, in the proposed section 26F, sub-sections (*5c*) and (*5d*) be omitted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I at this stage suggest that amendment No. 90 of the list of amendments, may also be moved? Amendment No. 91 is also of the same nature.

Mr. PRESIDENT: There is a slight difference in No. 90. It has one sub-section more, viz., sub-section (*10*).

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Difference there may be, but if sub-sections (*5c*) and (*5d*) are omitted, then sub-section (*10*) comes quite consequentially. So, No. 90 is the complete amendment and both 89 and 91 are defective.

Khan Bahadur ATAUR RAHMAN: Sir, I beg to move that in clause 6 of the Bill, in the proposed section 26F, sub-sections (*5b*), (*5c*), (*5d*) and (*10*) be omitted.

Sir, I need not dilate on this amendment.

Mr. PRESIDENT: Motion moved that in clause 6 of the Bill, in the proposed section 26F, sub-sections (*5b*), (*5c*), (*5d*) and (*10*) be omitted.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Mr. President, Sir, I accept the motion of Khan Bahadur Ataur Rahman in preference to mine, and I will speak on his motion. I wholeheartedly support the motion. The reason for it has already been explained by our friend Mr. Kamini Kumar Dutta, and I would not like to make a speech on this subject as I find that my noble friend, the Maharaja Bahadur of Santosh, takes offence at bare truth being given out. Truths are always bitter. So I do not like to make any speech at all. I only support the motion.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, Government are prepared to accept amendment No. 90.

Mr. NAZIRUDDIN AHMAD: Sir, I have very particular reason for congratulating Mr. Kamini Kumar Dutta. A perusal of the report of the Select Committee at page 1 shows that these objectionable provisions were inserted in the Bill on the motion of Dr. Radha Kumud Mookerji, the leader of the Congress party, that in the case of a failure of a co-sharer tenant to pre-empt, the landlord should be given the right of pre-emption. We are entirely opposed to this principle, and we are very glad that a member of the Congress party has attempted to do away with these objectionable provisions which crept into the Bill in the Select Committee stage.

Mr. NUR AHAMED: Mr. President, Sir, I beg to support the amendment moved by Khan Bahadur Ataur Rahman. I think I need not dilate on this point, but my only submission to this House is that after the abolition of the system of *selami*, there is no necessity of keeping these sub-sections. If they are retained, it will go to strengthen the hands of the zemindars and their *gomasthas* to intimidate and terrorise the tenants, and also the purchasers. It would be very difficult to get a purchaser. The Sword of Democles will be hanging over the head of the purchaser. So, I support the amendment.

Mr. PRESIDENT: I wish to put the amendment No. 90 before the House.

Mr. HUMAYUN KABIR: Sir, before you put it to vote, may I ask one question? Will the Hon'ble Minister point out the connection between sub-section (*10*) and the other sub-sections which are proposed to be deleted now?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: What is sub-section (*10*)? It is section 26J of the Act, and that will explain the difficulty of my friend if he kindly refers to the Act.

Mr. PRESIDENT: I wish to put the amendment No. 90, because it is more comprehensive than the other one. If it is passed, the amendment of Mr. Kamini Kumar Dutta need not be put to the vote of the House.

The question before the House is that in clause 6 of the Bill in the proposed section 26F, sub-sections (*5b*), (*5c*), (*5d*) and (*10*) be omitted.

The motion was agreed to.

Mr. PRESIDENT: So the motion of Mr. Kamini Kumar Dutta falls through.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that in clause 6 of the Bill, in sub-section (*6*) of proposed section 26F, the words "whether in favour of the co-sharer tenants or the landlords" be omitted.

Sir, the motion is consequential and therefore, it does not require any speech.

Mr. PRESIDENT: Motion moved that in clause 6 of the Bill, in sub-section (*6*) of proposed section 26F, the words "whether in favour of the co-sharer tenants or the landlord" be omitted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I accept the amendment.

The motion was adopted.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that in clause 6 of the Bill in sub-section (*6*) (*a*) of the proposed section 26F, the words "holding", and "as the case may be" occurring in lines 1 and 2 be omitted.

It is only a consequential amendment and does not require any speech.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir, it shall have to be moved but with slight amendment.

Mr. KAMINI KUMAR DUTTA: It is required only to remove any doubt whatsoever that the landlords as co-sharers of transferors are unable to purchase the land.

Mr. HUMAYUN KABIR: So a further verbal amendment will be necessary, and it should be "holding or "; as otherwise the amendment as it is at present will become meaningless.

Mr. PRESIDENT: The question before the House is that in clause 6 of the Bill in sub-section (*6*) (*a*) of the proposed section 26F, the words "holding", and "as the case may be" occurring in lines 1 and 2 be omitted.

To this amendment there is a further amendment adding the word "or" after the word "holding" in the amendment.

The motion, as amended, was carried.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that in clause 6 of the Bill, the words "or the landlord as the case may be" in line 9 of sub-section (*6*) (*a*) of proposed section 26F be omitted.

It is a consequential amendment and needs no dilating upon.

Mr. PRESIDENT: Motion moved that in clause 6 of the Bill, the words "or the landlord as the case may be" in line 9 of sub-section (*6*) (*a*) of proposed section 26F be omitted.

Mr. PRESIDENT: The question before the House is that in clause 6 of the Bill, the words "or the landlord as the case may be" in line 9 of sub-section (*6*) (*a*) of proposed section 26F be omitted.

The motion was carried.

Mr. NARESH NATH MOOKERJEE: Sir, I beg to move that in clause 6 of the Bill the words "or the landlords" in lines 2 and 3 of sub-section (*6*) of proposed section 26F be omitted.

Mr. PRESIDENT: The motion moved that in clause 6 of the Bill the words "or the landlords" in lines 2 and 3 of sub-section (*6*) of proposed section 26F be omitted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not think it is necessary.

Mr. PRESIDENT: The question before the House is that in clause 6 of the Bill the words "or the landlords" in lines 2 and 3 of sub-section (*6*) of proposed section 26F be omitted.

The motion was carried.

Mr. PRESIDENT: The question before the House is that clause 6 as amended stand part of the Bill.

The motion was agreed to.

Clause 8.

Mr. PRESIDENT: The question before the House is that clause 8 as amended stand part of the Bill.

The motion was carried.

Clause 9.

Rai MANMATHA NATH BOSE Bahadur: I beg to move that in clause 9, in proposed section 47A, for the words "whether their tenancies were created before or" the words "whose tenancies were created" be substituted.

Sir, my objection is that this section has also been retrospective in its operation. Rights have been taken away without payment of any compensation. I, therefore, suggest that the amendment be accepted.

Mr. PRESIDENT: Motion moved that in clause 9, in proposed section 47A, for the words "whether their tenancies were created before or" the words "whose tenancies were created" be substituted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I oppose this amendment.

Mr. PRESIDENT: The question before the House is that in clause 9, in proposed section 47A, for the words "whether their tenancies were created before or" the words "whose tenancies were created" be substituted.

The motion was lost.

Mr. PRESIDENT: The question before the House is that clause 9 stand part of the Bill.

The motion was agreed to.

Clause 10.

Mr. LALIT CHANDRA DAS: Sir, I beg to move that after clause 10 of the Bill, the following clauses be inserted, namely:—

"10A. In section 48B of the said Act—

(*1*) For the first two lines the following shall be substituted, namely:—

'The provisions of section 29 of the Bengal Tenancy Act relating to enhancement of rent of occupancy rights by contract

shall apply *mutatis mutandis* to enhancement of rent of an under-raiyat by contract. For purposes of this section the word 'under-raiyat' shall be read in place of the words 'raiyat' and 'occupancy-raiyat' wherever in that section those words occur.'

(*2*) In the proviso to sub-section (*1*) for the word 'four' the word 'two' shall be substituted."

Sir, the right of occupancy has been conceded to the under-raiyats. As a matter of fact, these under-raiyats are really the tillers of the soil——

Mr. PRESIDENT: Mr. Das, are you not moving the second part of your amendment?

Mr. LALIT CHANDRA DAS: Certainly, Sir, I shall move it.

Mr. PRESIDENT: Then you want to move it separately?

Mr. LALIT CHANDRA DAS: No, Sir. I shall move it now. I beg to move——

Mr. NAZIRUDDIN AHMAD: On a point of order, Sir,——

Mr. PRESIDENT: Let him move it first.

Mr. LALIT CHANDRA DAS: I beg to move that for section 48 (D) of the said Act, the following shall be substituted, namely:—

"48 (D). The provisions of section 30 of the Act relating to enhancement of rent of occupancy-raiyat by suit will apply *mutatis mutandis* to enhancement of rent of under-raiyat by suit. For the purposes of this section the word 'under-raiyat' shall be read in place of the words 'raiyat' and 'occupancy-raiyat' wherever in that section those words occur."

My intention, Sir, is to give the under-raiyats who are really the tillers of the soil the same facilities as the occupancy raiyats in the matter of enhancement of their rent by contract and by suit——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I rise on a point of order, Sir? I submit, Sir, that this amendment is outside the scope of the Bill because section 48B which we have touched is merely a formal amendment, and we have not really gone into the merits of the question. So, it is outside the scope of the Bill.

Mr. LALIT CHANDRA DAS: May I say something, Sir? Clause 10 reads as follows:—"In section 48A of the said Act for the words, figures and letters 'section 48B or section 48D' the words, figures and letters 'sections 48B or 48D or section 48G, as the case may be' shall be substituted".

Now, Sir, in section 48A we find this: "The rent of an under-raiyat shall not be enhanced except under the provisions of section 48B or section 48D."

So, my submission is that clause 10 makes an exclusive reference to sections 48B, and 48D, and I want that, so far as those two sections are concerned, they be substituted in the manner I have given notice of in my amendment. And, therefore, Sir, I submit that it is in order.

Mr. PRESIDENT: Order, order. I shall now adjourn the House for prayer till 5 p.m.

(After adjournment.)

Mr. PRESIDENT: Order, order. I have considered the question, and I hold that this amendment is out of order. Mere reference to a section in an amending Bill will not make all matters dealt with in that section relevant, and there may be cases where the sections that are not mentioned in an amending Bill may also be amended if there is any analogous section that is considered in the amending Bill.

The question before the House is that clause 10 stand part of the Bill.

The motion was agreed to.

Clause 11.

Mr. HUMAYUN KABIR: Sir, may I move the amendment standing in my name in two parts?

Mr. PRESIDENT: I think you had better move the two parts together.

Mr. HUMAYUN KABIR: Sir, I would like to move them separately.

Mr. PRESIDENT: All right. I have no objection.

Mr. HUMAYUN KABIR: Sir, I beg to move the first part of my amendment which reads as follows:—

"That clause 11 of the Bill be renumbered as sub-clause (*1*) of clause 11 and at the end of that sub-clause so numbered the following be added, namely:—

"and the words 'or partly' shall be deleted".

Sir, the effect of this amendment is that the present clause remains untouched, and I only propose to make some further amendment to section 48B which has already been amended by clause 11 of the Bill. In clause 11 of the Bill, certain amendments to section 48 have been provided for, and I propose to make certain further amendments. As section 48B now stands, the raiyat has the right of enhancing the rent where an improvement has been effected wholly or in part at his cost and for the benefit of his under-raiyats. If my amendment is carried, the raiyats shall not be entitled to enhance the rent of his under-raiyats unless an improvement has been undertaken entirely at his cost. As the section stands now, the raiyat, if he can plead that in some way or other his action has been responsible for some improvement in the holding, can claim to enhance the rent of the under-raiyat; but since this might raise all kinds of difficulties in determining as to whether actually the raiyat has improved the land or whether the land has been improved through the work of the under-raiyat and further since it might also lead to difficulties about the relative proportion of the cost of such improvements as between the raiyat and the under-raiyat and consequent uncertainty of ratio of such enhancement of the rent, I have proposed in the amendment that the words "or partly" be deleted, so that the position will be that if the raiyat improves the land at his own cost, he shall be entitled to enhance the rent of the under-raiyat, where there is no doubt that the improvement has been due to his own initiative. With these words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Motion moved that clause 11 of the Bill be renumbered as sub-clause (*1*) of clause 11 and at the end of that sub-clause so numbered the following be added, namely:—

"and the words 'or partly' shall be deleted".

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I venture to submit that this amendment is outside the scope of the Bill, because the amendment in section 48B, that is in clause 11, is a very formal one; that is, instead of the word "raiyat," we have used the words "his landlord" just to make it explicit and it does not touch the substance of the section.

Mr. HUMAYUN KABIR: Sir, I submit that section 48B has been amended and by substituting the words "his landlord", there has been a material change in the substance of this sub-section. In other words, the raiyat is now placed in the position of a landlord and consequently the under-raiyat is placed in the position of a raiyat. If the under-raiyat is placed in the position of a raiyat, that means a material alteration in his previous status. In any case, the section has been touched not merely in a formal way, but there has been an amendment of the section itself.

Mr. PRESIDENT: As I have held already, mere mention of a section will not make the whole section liable to amendment.

Mr. HUMAYUN KABIR: May I submit that it is not a mere mention of the sub-section, but it is an amendment of the section itself? With regard to amendment No. 145 of the list, you held and held rightly that there was only mention of the section, that section was not touched. In the amendment of section 48A, section 48B and section 48D had been mentioned; but here in clause 11, it is not merely a mention of section 48B, but it is actually an amendment of the section 48B.

As to the question whether it is a material or verbal amendment, there is always a difference of opinion; as in the law courts, there is a difference of opinion as to whether a law confers a substantial right or it is merely a law of procedure. Therefore, since the section itself has been amended, I submit that the objection raised by the Hon'ble Minister is not valid—it is not a case of mere mention of this section.

Mr. PRESIDENT: I hold it is out of order.

Mr. HUMAYUN KABIR: Does the second portion of my amendment also go out?

Mr. PRESIDENT: Yes.

The question before the House is that clause 11 stand part of the Bill.

The motion was agreed to.

Clause 12.

Mr. PRESIDENT: The question before the House is that clause 12 stand part of the Bill.

The motion was agreed to.

Clause 13.

Mr. KAMINI KUMAR DUTTA: I beg to move that for clause 13 of the Bill, the following be substituted, namely:—

"13. In section 48F of the said Act, for the words 'but shall not be transferable except with the consent of the landlord' the words 'and shall be transferable like any other immovable property subject to the provisions of sub-section (2) of section 48G', shall be substituted".

The Hon'ble Sir BIJOY PRASAD SINGH ROY: On a point of order, Sir. Clause 13 is—"In section 48F of the said Act after the word 'but' the words, figures, letter and brackets 'subject to the provisions of sub-section (2) of section 48G', shall be inserted". That is merely a formal amendment which we have made and the amendment which Mr. Kamini Kumar Dutta now suggests, extends the scope of the section conferring substantial right on under-raiyats, which is not at all the object of this amendment. So it is outside the scope of the Bill.

Mr. KAMINI KUMAR DUTTA: Had this amendment of clause 13 been merely a formal amendment, certainly my amendment would have been out of order. I do admit that in my amendment I have asked for a substantial right. But it appears that the amendment is not confined to some verbal alteration, but actually seeks to grant a substantial right. Now, section 48F which concerns the incidents of holding of under-raiyat as it now stands runs thus: "The holding of an under-raiyat shall descend in the same manner as other immovable property but shall not be transferable except with the consent of the landlord". So as the law now stands, the right of an under-raiyat is heritable, but it is not transferable. But the amendment proposed by clause 13 gives partially the right of transfer to under-raiyat. It says—"subject to the provisions of sub-section (2) of section 48G". Sub-section (2) of section 48G is a section which gives the right of occupancy to an under-raiyat. So, in case of those under-raiyats who get the right of occupancy, they get all the incidents of an occupancy raiyat and consequently they get also the right to transfer. The amendment seeks only to give the right of transfer to those classes of under-raiyats who come under sub-section (2) of section 48G. In my amendment I have extended it a little. You are going to give the right of transfer to under-raiyats and you are confining it to a particular class of under-raiyats. But if you accept my amendment, it should be extended to the whole class of under-raiyats. It is for you to decide whether it is in order or out of order.

Mr. PRESIDENT: I hold it to be in order.

Mr. KAMINI KUMAR DUTTA: Sir, the object of my amendment is only to give an unrestricted right of transfer to all under-raiyats, instead of granting that right only to a particular class of under-raiyats who have acquired the right of occupancy under sub-section (2) of section 48G. It appears that the trend of the law is that the status of the under-raiyats is to be improved. Better right is being conferred on under-raiyats. The under-raiyat is being given the right of occupancy and with the acquisition of that right he gets all the incidence of an occupancy raiyat. So where the trend of the law is to extend the right of an under-raiyat, I see no reason why the valuable right of transferability should not be extended also in the case of an under-tenant.

With these remarks I move my amendment and expect that the House will certainly give that right, a very ordinary elementary right, to the under-raiyats—the right of simply transferring a holding.

Mr. PRESIDENT: Amendment moved that for clause 13 of the Bill, the following be substituted, namely:—

"13. In section 48F of the said Act, for the words 'but shall not be transferable except with the consent of the landlord' the words 'and shall be transferable like any other immovable property, subject to the provisions of sub-section (2) of section 48G', shall be substituted."

Mr. LALIT CHANDRA DAS: I beg to move that for clause 13 of the Bill, the following be substituted, namely:—

"13. In section 48F of the said Act, for the words 'but shall not be transferable except with the consent of the landlord' the words 'and shall be transferable without the consent of his landlord', shall be substituted."

Here I have not made it subject to any of the sections of the Bengal Tenancy Act. I have made it clear that under section 48F an under-raiyat should have an unrestricted right of transfer as an occupancy raiyat has.

With these words, I beg to move my amendment.

Mr. PRESIDENT: Motion moved that for clause 13 of the Bill, the following be substituted, namely:—

"13. In section 48F of the said Act, for the words 'but shall not be transferable except with the consent of the landlord' the words 'and shall be transferable without the consent of his landlord', shall be substituted."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose these amendments, and my grounds are these: the Bill clause only seeks to confer the right of transferability on under-raiyats who have the right of occupancy. My friend Mr. Dutta wants to extend it very much. He wants to confer the unrestricted right of transferability on all under-raiyats. In a word, he wants to place them exactly in the same position as occupancy raiyats which is certainly not the object of the Bill and is outside the scope of the Bill.

Mr. PRESIDENT: Order, order. I have held that it is within the scope of the Bill. I gave no reason. But as the purpose of the Bill is to lessen the burden of the cultivator, the Chair has held that it is within the scope of the Bill. The Revenue Minister will not be permitted to question my ruling. On merits of the amendment in question only he can argue.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: First of all, it is wrong in principle to allow two sets of tenants to have the right of occupancy in the same holding. Of course under the existing Act some classes of under-raiyats can acquire the right of occupancy by custom. The amendment of the hon'ble member proposes that it should be extended to all classes of under-raiyats. Its result would be to encourage further sub-infeudation. Once we give that right to the under-raiyats, it will only encourage those under-raiyats to sublet their holdings to under-raiyats under them, and it will render the holdings further uneconomic. The whole problem about under-raiyats and occupancy right of under-raiyats requires examination before any such right can be given to them as a class. I think it will be desirable not to do so by a simple amendment as suggested by my friend Mr. Dutta. I oppose this amendment.

I also oppose the amendment of my friend Mr. Das on the same ground.

Khan Bahadur M. SHAMSUZZOHA: Mr. President, Sir, I oppose both the amendments on the point of law and not on the point of order you have already given.

If you read section 48G, sub-section (*1*), you will find that every under-raiyat who, immediately before the commencement of the Bengal Tenancy Act, 1928, had by custom a right of occupancy in any land, shall have a right of occupancy in that land. By this section only those under-raiyats who have secured the right of occupancy by virtue of custom only are recognised and that even is further restricted by sub-section (*2*). It says "every under-raiyat who has a right of occupancy in his holding shall have, as regards his immediate landlord, all the rights and liabilities of a raiyat with a right of occupancy

as set forth in Chapter V other than those conferred or imposed by sections 20, 21, 22, 26A to 26J. Under section 20 it is by twelve years' continuous occupation of land in a village that a raiyat, properly speaking, acquires a status, namely, the status of a settled raiyat and thereby the right of occupancy and by dint of section 21 every settled raiyat by virtue of his status shall have right of occupancy in all land for the time being held by him as a raiyat in the village. Thus it follows that once a raiyat acquires the status of a settled raiyat he gets a right of occupancy in a plot of land which he cultivates as a raiyat even for a year or a part of a year. Section 22 also gives or denies the right under certain contingencies. No amendments have yet been moved conferring such rights on under-raiyats. An under-raiyat is not given the rights under sections 20, 21 and 22; then the only circumstance under which he is given occupancy right is under "custom". Both the amendments seek to enlarge the rights which are denied to under-raiyats by sections 20, 21 and 22. It would be anomalous if we accept these amendments which are far-reaching in scope and character. So I oppose them.

Mr. PRESIDENT: The question before the House is that for clause 13 of the Bill, the following be substituted, namely:—

"13. In section 48F of the said Act, for the words 'but shall not be transferable except with the consent of the landlord' the words 'and shall be transferable like any other immovable property subject to the provisions of sub-section (2) of section 48G', shall be substituted".

The motion was lost.

Mr. PRESIDENT: The question before the House is that for clause 13 of the Bill, the following be substituted, namely:—

"13. In section 48F of the said Act, for the words 'but shall not be transferable except with the consent of the landlord' the words 'and shall be transferable without the consent of his landlord', shall be substituted."

The motion was lost.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I beg to move that after clause 13 of the Bill, the following new clause be added:—

"13A. In sub-section (*1*) of section 48G of the said Act after the words 'right of occupancy in any land' the words 'or had possession of the holding for a continuous period by twelve years as an under-raiyat' shall be added."

The main purpose of this amendment is that section 48G only recognises one class of under-raiyats as occupancy raiyats. But my amendment aims at extending the scope of acquisition of that right by under-raiyats. The principal ground on which I submit my amendment is that at present under-raiyats are becoming the real cultivators of the land. The former occupancy raiyats are merely becoming another class of collectors of rent. Therefore the occupancy right was a feature of the Statute by which certain rights were conferred upon a class of people who were not in a competent position to protect their own interests. The Legislature has to take them into cognizance and give them some statutory rights in order that they may protect themselves against the danger against which they are not competent to protect themselves. The position now is that the under-raiyats are now becoming the real cultivators and the protection which was originally meant for the under-raiyats should be extended to the real cultivators of the land and the middle-class men who were either money-lenders or belonged to the *mahajan* class having purchased the occupancy rights, are now transferring under-raiyatari interests to the very cultivators who were originally under-raiyats and had to part with their occupancy rights by virtue of the various provisions of transfer. Therefore, I submit that in the general interest of tenancy rights the under-raiyats should be protected and the law should be extended. The Hon'ble Minister will perhaps raise a point of order and seek the protection of the Chair, but I submit that he ought not to seek the protection of the Chair but ought to face the position boldly. This is the principle which has been followed in some of the Bills, namely, that as soon as a section has been opened by certain amendments, the whole section is open to be amended by the House——

Mr. PRESIDENT: Provided it comes within the scope of the Bill.

Mr. HAMIDUL HUQ CHOWDHURY: Certainly, Sir, so far as it comes within the scope of the Bill. There are two ways of judging whether an amendment is within the scope——

Mr. PRESIDENT: You need not go elaborately into that.

Mr. KAMINI KUMAR DUTTA: Sir, I have got a similar amendment which is in respect of clause 14.

Mr. PRESIDENT: It cannot be moved now, because it relates to another clause.

Motion moved that after clause 13 of the Bill, the following new clause be added:—

"13A. In sub-section (*1*) of section 48G of the said Act after the words 'right of occupancy in any land' the words 'or had possession of the holding for a continuous period by 12 years as an under-raiyat' shall be added."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, my dictionary always makes a distinction between boldness and rashness. Though I am very much inclined to be bold, I do not wish to be rash. My hon'ble friend Mr. Hamidul Huq Chowdhury's amendment is, in my opinion, decidedly outside the scope of the Bill.

Mr. HAMIDUL HUQ CHOWDHURY: Is that boldness or rashness?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is certainly rashness on his part. He wants to interpret it as boldness, but to go outside the scope of the Bill is rashness and not boldness. Section 48G has been touched—for what purpose? Only to omit the figure 86, that is the sole purpose for which the section has been touched and why it has been omitted? Because the occupancy under-raiyats have been given the same status as occupancy raiyats under Chapter VII, so that the occupancy under-raiyats will be enjoying the rights of surrender under section 86. So, it is a consequential change, but my friend taking advantage of this, wants to extend the rights of occupancy for the under-raiyats enjoying the same land for twelve years. That is what he suggests, and I beg to submit that it is definitely an attempt to extend the scope of the Bill, which is not the object of the Bill clause.

Mr. PRESIDENT: I hold it to be in order. Would you like to say anything on the merits of the amendment?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: As I have said already in connection with another amendment, the whole question regarding the under-raiyats has got to be considered quite separately, and it will not be fair to try to extend the right of occupancy to those tenants who do not enjoy that right at present. It will only create further sub-infeudation, which I am sure, the House does not want to encourage. It will render the holding more uneconomic than ever. So I am not disposed to bring about any change with regard to the status of the under-raiyats without a very careful examination of the question in all its implications and repercussions on the general economic condition of the raiyats and under-raiyats.

Mr. HUMAYUN KABIR: Sir, what the Hon'ble Minister has just now said would have some force if there were no under-raiyats with occupancy rights at all. But since there are certain under-raiyats with occupancy rights the objection he has raised loses a great deal of its force. The purpose of this amendment is only to grant similar rights to those under-raiyats who have been in possession of a particular plot of land for twelve years or more. If a particular under-raiyat has been in possession of a piece of land for twelve years or more it shows that he has definitely acquired an interest in that plot of land and this amendment only seeks to recognise that interest by conferring on him occupancy rights. At present the rule is that where there is a custom, the under-raiyat may have occupancy rights, but custom is a vague thing and difficult to determine. It is far easier to determine whether an under-raiyat has been in actual possession of land for twelve years or more. Therefore, in very many cases the rights of the under-raiyats to have occupancy rights by custom remain more often a hope than not. In fact, if this amendment is carried then the position will be definitely improved, and what the Government profess to do in principle, will be realised in respect of the under-raiyat. With these words, I support the amendment.

Mr. PRESIDENT: The question before the House is that after clause 13 of the Bill, the following new clause be added:—

"13A. In sub-section (*1*) of section 48G of the said Act after the words 'right of occupancy in any land' the words 'or had possession of the holding for a continuous period by 12 years as an under-raiyat' shall be added."

The House divided:—

AYES—7.

Chaudhury, Mr. Moazzemali.	Kabir, Mr. Humayun.
Chowdhury, Mr. Hamidul Huq.	Maitra, Rai Bahadur Brojendra Mohan.
Das, Mr. Lalit Chandra.	Pal Choudhury, Mr. Ranajit.
Dutta, Mr. Kamini Kumar.	

NOES—20.

Ahmad, Mr. Naziruddin.	Huq, Mr. Syed Muhammad Ghaziul.
Ahmed, Mr. Mesbahuddin.	Ibrahim, Khan Bahadur Maulvi Mohammad.
Baksh, Mr. Kader.	Karim, Khan Bahadur M. Abdul.
Barua, Dr. Arabinda.	Khan, Khan Bahadur Muhammad Asaf.
Chowdhury, Khan Shaib Abdul Hamid.	Khan, Maulana Muhammad Akram.
Chowdhury, Mr. Khorshed Alam.	Molla, Khan Sahib Subidali.
Chowdhury, Mr. Rezzaqui Haider.	Momin, Begum Hamida.
D'Rozario, Mrs. K.	Rahman, Khan Bahadur Ataur.
Esmail, Khwaja Muhammad.	Rahman, Mr. Mukhlesur.
Hosain, Khan Bahadur Saiyed Muazzamuddin.	Shamsuzzoha, Khan Bahadur M

The motion was lost.

Mr. PRESIDENT: The question before the House is that clause 13 stand part of the Bill.

The question was agreed to.

Clause 14.

Mr. LALIT CHANDRA DAS: Sir, I beg to move that in clause 14, in original section 48G(*3*) the word "not" shall be omitted.

In sub-section (*3*) of section 48G, we find, the interest of an under-raiyat who has a right of occupancy in his holding shall not be deemed to be a protected interest under clause (*d*) of section 160. My amendment requires that the word "not" should go.

Mr. PRESIDENT: Motion moved that in clause 14, in original section 48G(*3*) the word "not" shall be omitted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, it is a very small amendment but a very dangerous one, and I oppose it. I have already explained my reasons for not supporting any change in the status of the under-raiyat at this stage.

Mr. PRESIDENT: The question before the House is that in clause 14, original section 48G(*3*), the word "not" shall be omitted.

The House divided:—

AYES—8.

Chaudhury, Mr. Moazzemali.	Kabir, Mr. Humayun.
Chowdhury, Mr. Hamidul Huq.	Maitra, Rai Bahadur Brojendra Mohan.
Das, Mr. Lalit Chandra.	Mookerjee, Mr. Naresh Nath.
Dutta, Mr. Kamini Kumar.	Pal Choudhury, Mr. Ranajit.

NOES—19.

Ahmad, Mr. Naziruddin.	Ibrahim, Khan Bahadur Maulvi Mohammad.
Ahmed, Mr. Mesbahuddin.	Karim, Khan Bahadur M. Abdul.
Baksh, Mr. Kader.	Khan, Khan Bahadur Muhammad Asaf.
Barua, Dr. Arabinda.	Khan, Maulana Muhammad Akrum.
Chowdhury, Khan Sahib Abdul Hamid.	Molla, Khan Sahib Subidali.
Chowdhury, Mr. Khorshed Alam.	Momin, Begum Hamida.
D'Rozario, Mrs. K.	Rahman, Khan Bahadur Ataur.
Esmail, Khwaja Muhammad.	Rahman, Mr. Mukhlesur.
Hosain, Khan Bahadur Saiyed Muazzamuddin.	Shamsuzzoha, Khan Bahadur M.
Huq, Mr. Syed Muhammad Ghaziul.	

The motion was lost.

Mr. MUKHLESUR RAHMAN: Sir, I submit that the House may be adjourned now. We have come at 1 of the clock and it is about six now. We have worked for five hours.

Several members: We are tired.

Mr. PRESIDENT: I would like to hear the Maharaja of Santosh.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, I do not mind if the Council is adjourned.

Mr. PRESIDENT: The Government rightly insists that the whole Bill must be finished in this session, and so it will be necessary to sit for longer hours. The Chair is agreeable to sit for any length of time, but I must look to the convenience of the House.

Mr. MUKHLESUR RAHMAN: Sir, I beg to withdraw what I have said. I am willing to sit until 8 of the clock.

Mr. NARESH NATH MOOKERJEE: Sir, we have worked for five hours, and to-morrow we are going to consider the Bill in three stages. I consider we shall have done enough work if we adjourn at 6 of the clock.

Khan Bahadur M. ABDUL KARIM: For myself, Sir, I can work till midnight, but if my friends are anxious to get away, it is not right that I should insist.

Mr. KADER BAKSH: The Khan Bahadur might wait till midnight, but it is not right for us for sake of his health to allow him to sit so long.

Mr. PRESIDENT: The Khan Bahadur may personally be willing to sit till midnight, but I wanted his opinion on behalf of his party, which is the biggest party in the House.

Khan Bahadur M. ABDUL KARIM: Most of the members on my side of the House are not willing to sit till 7 o'clock at the latest.

Mr. PRESIDENT: I want to hear the Maharaja of Santosh.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, I really do not see why there should be such an unseemly haste. The skies will not fall down if we take two or three more days over this and try to thresh out matters more carefully. If the Government is able to explain as to why there should be this unseemly haste in passing this legislation, I might revise my decision. But at present, I think it is necessary that we should not sit beyond the prayer time. I think it is quarter to six, and think that should be the limit to-day. After adjournment for fifteen minutes, I do not think it would be worthwhile to come back again.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, may I request t House to kindly consider the difficulties that stand in our way a why Government are anxious to finish this Bill as soon as possibl Their position is this: after the 9th the holidays will begin, and it extremely doubtful if the House will be able to sit as there will be o or two intervening holidays. If we cannot get this Bill through th House on Friday, then we shall have to carry it over to the next sittir of the Assembly which is going to take place on the 6th or 7th of Apri The Bill will have to be presented and laid on the table of the Assemb on the 6th of that month. Then some time has got to be given f consideration before it can be taken up again. That means that tl Assembly will have to be kept in session till after the Easter holida which we are very anxious to avoid. We have had a very long sessio and there are members who are wanting to get away. Otherwis there is no other work for the Assembly. The only way in which w can do it is to finish it to-morrow. Then it may be possible for us t lay the report on the same day before the Assembly, and we can tak it up on the 6th or 7th of the next month. I may suggest to the Hous and I think the Maharaja will support me, that the old Council used t sit from 3 o'clock to 7 or 7-30. Four hours is normal. To-day, th Council has only sat from two and it is not even six yet. All that w request you to do is to sit up till 7-30 o'clock, and may I suggest that after all, this House has been expressing its dissatisfaction that the do not get sufficient time? Two hours a day, they thought, were in sufficient. Here we are giving more time for discussion, and you won' take it. We are often told what takes place in the other Legislature in Europe. In England the House of Commons sits from 3 o'clock t 10 o'clock or 11 o'clock at night.

Some members: But they have dinner there. Is there any arrange ment for dinner here?

The Hon'ble Khwaja Sir NAZIMUDDIN: There is a refreshmen room in the House of Commons, and you have got a refreshment roon here. If the members want, the caterers will be able to give them dinner at a very reasonable price. There will be no difficulty in having dinner if it is wanted.

What I was thinking was that this House would go ahead and take the precedent from the Assembly and establish a precedent here o having the first night session before the Assembly has ever done.

Mr. HUMAYUN KABIR: We have already done it in the last session. It was on the 16th August last.

The Hon'ble Khwaja Sir NAZIMUDDIN: But what I really want is an all-night session. I hope, Sir, the House will agree to sit up to 7-30 to-day.

Mr. PRESIDENT: It is no good sitting any longer unless the House sits up to 7-30, as between 6 and 6-30 there is to be prayer. So either I will stop at 6-15 or at 7-30.

The Hon'ble Khwaja Sir NAZIMUDDIN: 7-30 is very reasonable. We were going to ask the House to sit after dinner to-night, but as there is great reluctance on the part of the hon'ble members opposite, we will not press for that. I also see that this House is not only the House of Elders from the point of terms, but actually I see that old people are here. So they cannot sit much longer, though I find one of the oldest members has volunteered to sit till 12-30. I hope they will kindly sit till 7-30.

Another point is, everybody is anxious to reduce the cost of administration on the ground of economy. I hope the members will set a practical example in this respect. We want the members to teach the Government how to economise.

Khan Bahadur ATAUR RAHMAN: Sir, if we can finish this Bill to-day, it does not matter if we sit up to midnight as our friend says.

Mr. HUMAYUN KABIR: Sir, there are two considerations. There is not only the question of our sitting for long hours, one of physical endurance, but there is also the question of our capacity to consider the particular clauses which are coming one after the other. Tired legislators make bad legislations. Sir Nazimuddin seems to think that because we have complained of under-work in the past, therefore we should be given overwork to-day. That is just like saying, because somebody has starved for a long period, there should be over-feeding afterwards. Both over-feeding and under-feeding are bad. I should suggest that four or four and a half hours a day is about the maximum period during which people can attend to such complicated matters as are brought up by this Bill for our consideration. We sat at 2 o'clock and we have already spent some twenty minutes in discussing how long we shall sit to-day. So, Sir, if we stop at 6-15 and have an interval, it will not be worthwhile sitting for half an hour after that. As to-morrow we are going to sit again for at least four hours or may be even more, the Bill will most probably be finished to-morrow and if not to-morrow, certainly the day after. Such being the case, there is no reason why there should be an attempt to finish the Bill hurriedly to-morrow by devoting extra hours to-day and before it is possible for us to consider all the clauses with that amount of attention which they deserve.

The Hon'ble Khwaja Sir NAZIMUDDIN: This House is always fond of traditions. Following the same parliamentary traditions we are asking the members to work for only a little time more. It is that when you have got a big Bill to be finished soon you are asked to work a little more than what is usual and in the other countries they have got regular night sittings to get their work done. We are asking only five hours' work which is not more but, on the other hand, less than the normal duration of the sitting obtaining in England and elsewhere.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I think, we have wasted a good deal of our time in discussing this matter. It is for the House to abide by any decision that the Chair may take. We are not shunning work, but I have told once and I want to repeat it with all the emphasis that I can command that this unseemly haste on the part of Government to rush through this important piece of legislation is very much resented by this section of the House, and I might have to reconsider the decision that I gave before. Perhaps my friend the Hon'ble Home Minister is afraid that if we have a continued sitting for some days more, that might prevent him from going to the hills and enjoying the pleasant climate of Darjeeling. Perhaps he is feeling the present heat too much; but we shall certainly not be sorry if the hill exodus is altogether stopped.

Mr. PRESIDENT: May I take it that the House will be agreeable to sit, if necessary, to-morrow after dinner? Or if we rise at 6-15 p.m., are the members prepared to sit after dinner to-day?

The Hon'ble Khwaja Sir NAZIMUDDIN: I would once again just appeal to the House that we want you to-day for one hour more, and what is the objection to this? You say you are prepared to work for more than four hours and that after dinner to-morrow. That does not help us in any way. I submit that it makes no difference to us at whatever time you sit to-morrow; but, what we want is that the Bill should be finished by 5 o'clock to-morrow, and that is the reason why we want you till 7-30 p.m. to-day, that is for an hour more, so that we can finish some more clauses of the Bill.

Mr. HUMAYUN KABIR: We will finish to-morrow after dinner.

The Hon'ble Khwaja Sir NAZIMUDDIN: To finish after dinner is of no use to us; it does not help us, that is the whole thing, because we want to submit a report of what has been done with regard to this Bill to the Assembly to-morrow at 8 p.m.—a report of the Bill. That is the whole position. So it does not help us. It is only a question of an hour more. 7-30 is all that we want. I may most respectfully draw the attention of the Maharaja that he previously, as President of this

Council, worked from 3 p.m. to 8 p.m. and necessarily the members also did the same. We worked even up to 8-30 when he had kept us for the consideration of important Bills, *e.g.*, the Local Self-Government Bill. I am sure the House remembers that we had gone up to 8-30, *i.e.*, from 3 to 8-30 or in other words, five and a half hours. What we want to-day is only five hours—not even five and a half hours.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: We had then night sittings too, I know.

Mr. PRESIDENT: Order, order. If Sir Nazimuddin's eloquence has failed to convince the House, may I suggest another thing? If we now postpone and meet again at 8-30, will that be convenient?

Mr. NARESH NATH MOOKERJEE: That will interfere with our present engagements.

Mr. HUMAYUN KABIR: As we have not made any arrangements for this evening, we are not prepared to sit after dinner to-night.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, you told the House yesterday that we might have to sit for longer hours to-day.

Mr. HAMIDUL HUQ CHOWDHURY: We have already been sitting for four hours, that is more than usual.

Mr. HUMAYUN KABIR: We are prepared to sit at a stretch up to 7 p.m. but not later than that.

The Hon'ble Khwaja Sir NAZIMUDDIN: 7-15?

Some members: Yes, yes, all right.

Mr. HUMAYUN KABIR: I want to know from you, Sir, the result of the agreement arrived at among the Group leaders.

Mr. PRESIDENT: 7-15 has been agreed to.

Clause 14.

Mr. PRESIDENT: The question before the House is that clause 14 stand part of the Bill.

The motion was agreed to.

Clause 15.

Mr. PRESIDENT: The question before the House is that clause 15 stand part of the Bill.

The motion was agreed to.

Clause 16.

Mr. PRESIDENT: The question before the House is that clause 16 stand part of the Bill.

The motion was carried.

Clause 17.

Mr. PRESIDENT: The question before the House is that clause 17 stand part of the Bill.

The motion was agreed to.

Clause 18.

Mr. NUR AHAMED: I beg to move that for clause 18 the following clause be substituted, namely:—

"18. In sub-section (*4*) of section 54 of the said Act the words, figures and letters 'or that he has waived his rights under sections 26D, 26E, 26F, or 26J' shall be omitted."

Mr. PRESIDENT: Motion moved that for clause 18 the following clause be substituted, namely:—

"18. In sub-section (*4*) of section 54 of the said Act the words, figures and letters 'or that he has waived his rights under sections 26D, 26E, 26F, or 26J' shall be omitted."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I rise to accept this amendment which is only consequential to a previous one.

Mr. PRESIDENT: The question before the House is that for clause 18 the following clause be substituted, namely:—

"18. In sub-section (*4*) of section 54 of the said Act the words, figures and letters 'or that he has waived his rights under sections 26D, 26E, 26F, or 26J' shall be omitted."

The motion was carried.

Mr. PRESIDENT: The question before the House is that clause 18 stand part of the Bill.

The motion was carried.

Clause 18A.

Mr. PRESIDENT: The question before the House is that clause 18A stand part of the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I submit that clause 18A may not be taken up for the present.

Mr. PRESIDENT: All right.

Clause 19.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I beg to move that to clause 19, the following be added, namely:—

"and to that section the following proviso shall be added, namely:—

'provided that in case of contract the rate of interest specifically mentioned therein shall prevail'."

With your permission, Sir, I should like to add "written" before "contract".

Mr. PRESIDENT: Yes, you have my permission.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, the object of my motion is to make this section more clear. As a matter of fact, we welcome the suggestion to reduce the rate of interest from 12½ to 6¼ per cent., but, Sir, I would ask Government how much they are justified in bringing forward this clause to reduce the rate of interest in the case of tenants whereas they themselves have not done anything in this direction. At the present moment, in the case of roads and public works cesses, the rate of interest charged is 6¼ per cent. for the current year up to a period of six months and 12½ per cent. for arrears. In the case of arrears of revenue, the interest charged is 15 per cent., 7 per cent. and about 7½ per cent. as penalty——

Mr. KAMINI KUMAR DUTTA: May I rise on a point of order, Sir?

Mr. PRESIDENT: You can rise on a point of order as soon as the Raja Bahadur finishes his speech.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I submit, Sir, that where the interests of Government are concerned they have not done anything to reduce the rate of interest, and so I would submit that they are not justified in bringing forward this proposal for the reduction of the rate of interest as they have stuck to their old position.

The object of my amendment is, as I have already said, Sir, to make the provision as clear as possible. In law there should be no vagueness and ambiguity, and it is for this reason, Sir, that I have brought forward this amendment.

Apart from this, I think that the sanctity of contract should be preserved. On contract, Sir, the whole fabric of business depends. If you tamper with contract now and then it would mean that at no distant time the credit of the people will be gone. As a matter of fact, with the passing of the Agricultural Debtors Act, rural credit has been shattered, because the sanctity of contract has been violated. The same will be the fate of business if the legislators be allowed to tamper with contract. The tenant who could get a loan of Rs. 100 without any difficulty cannot now, as a result of the passing of the Debtors' Act, get even Re. 1. This is the state of affairs, Sir, and if you touch the sanctity of contract, business will suffer and economic structure will be shaken.

The next point, Sir, that I want to press is that this House has no jurisdiction to make any legislation with regard to contract. In this connection, I beg to point out to the House under the Government of India Act, 1935, under list III, seventh schedule, at page 294, item No. 10, it is laid down that "contracts, including partnership, agency, contract of carriage and other special forms of contract, *but not including contracts relating to agricultural land*" come within concurrent legislative list. Now, Sir, agricultural lease is a contract, and therefore this House is incompetent to deal with this matter. My idea is that any stipulation in the lease with regard to interest between landlord and tenant be preserved.

The next point that I would make out is that under the present law a legislator cannot do away with the contractual right. If the proposed clause be passed then the effect will be that the rate of interest as mentioned in the contract will not prevail. Thus the existing contracts or lease fixing the annual rent of a holding would be null and void—specially with reference to the terms of contract with regard to the payment of interest for the arrear of rent.

Sir, I shall cite a few rulings of the Calcutta High Court. The section 67 had been embodied in the old Act for the following reasons, namely, that previous to the Permanent Settlement there was no uniformity in the rate of interest. The rate of interest varied in different areas in different *pargunas*—somewhere it was high and

somewhere it was low. By section 67, Sir, the rate of interest has been made uniform, viz., at 12½ per cent. Then later on it has been laid down in several High Court rulings that where there is a contract between landlord and tenant with regard to payment of rent, the contract should prevail.

To nullify this the new section 178 has been introduced. It should be seen that the old section 178 (*h*) affected only contracts made after the passing of the Act: so contracts entered into before the passing of this Act were held not to be affected by the provisions of this section. (See—Anandamoyi versus Soudamini 37 C.L.J. 333, 27 C.W.N. 502; A.I.R. 1923 Cal. 559 and 72 I.C. 719.)

As regards section 67 being controlled by section 179, I may cite a few High Court rulings showing that a permanent *mokarari* lease may be rendered liable for interest at a rate higher than that provided for hereby—they are Matangini versus Makrura, 29 Cal. 674: 5 C.W.N. 433 (F.H.) and Atulya Charan versus Tulsidas, 2 C.W.N. 543. Section 179,—however, does not exclude the equitable jurisdiction of civil courts to grant reliefs in cases of extortionate and unconscionable bargains (Naba Kumar versus Abdul Jabbar 20 C.W.N. 112 and 36 I.C. 721.)

The ordinary rule of law is that in the absence of proof of an undue influence, coercion, etc., the parties are to stand by their bargains as represented in the contracts [Bhutnath versus Ramanath, 48 Cal. 93: 57 I.C. 1004: Camp, Aziz Khan versus Dum Chand: 23 C.W.N. 130 (P.C.): Ganendra versus Babulla 22 C.W.N. cxxiv (124): Narendra Nath versus Moniruddi 35 C.L.J. 209: Rajkumar versus Girindra 41 C.L.J. 453: 87 I.C. 178: Jadunath versus Abdul Aziz 91 I.C. 459.] So, where in a rent suit interest was claimed at the contractual rate of 75 per cent. per annum the court observed as follows:—

The rate no doubt is very high, but the tenants have the remedy in their own hands. They have only to pay their rent regularly and no interest will be chargeable—[Ashutosh Dhur versus Joy Lal, 17 C.L.J. 50 (53).]

Sir, these are the rulings of the Calcutta High Court before 1928. In 1928 a new section was added, namely, section 178 where it is stated that nothing in any contract between a landlord and a tenant made before or after passing of this Act shall affect the provisions of section 67 relating to interest payable on arrears of rent. The object of the legislators was to apply the section 67 to contracts also. But they have failed to carry out their motive. In the eye of law, the adding of this section is of no effect on contractual rights. I now cite a few rulings on this point. After these rulings, it was found by the legislators that the contract would remain in force and so this new section was added. I would point to the latest ruling of the High Court given by Rankin, C. J., and Mukherji, J., the greatest authorities

in land-tenure question that India has even seen. The substance of this ruling is given in 33 C.W.N., page cxxiv and reads as follows: ".....the defendants preferred this second appeal, and it was submitted *inter alia* on their behalf that though the *kabuliyat* in this case was before the Bengal Tenancy Act of 1885, by virtue of the amendment of section 178 by the Amending Act of 1928, inserting clause (*i*) under sub-section (*1*) of that section, section 67 of the Act would now apply to all contracts whether made before or after the passing of the Act of 1885, ..." "and the effect of this amendment was that it would have retrospective operation and would also apply to pending cases and as such plaintiff was entitled only to interest at 12½ per cent. per annum under section 67". That was the defendants' argument. "Their Lordships affirmed the decision of the courts below and held that section 178, sub-section (*1*), clause (*i*) is not retrospective in operation. Mr. Justice Mukerji who delivered the judgment of the Court observed as follows 'I do not find any word either in section 178 or anywhere else in the Amending Act which gives this amendment a retrospective operation' ". Thus the parties are bound to pay interest at the rate that has been written in the contract. That is the latest ruling; the sanctity of a contract should remain, even after the addition of the new section 178, even if my amendment be not carried. But to make the section more clear on the basis of the ruling I have proposed this amendment. I have nothing more to add. With these words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Motion moved that to clause 19, the following be added, namely:—

"and to that section the following proviso shall be added, namely:—

'provided that in case of written contract the rate of interest specifically mentioned therein shall prevail'."

Mr. KAMINI KUMAR DUTTA: Sir, my point of order is this: it appears that the only amendment which is asked for is to add a proviso that the contract between the landlord and the tenant shall prevail as to the rate of interest. Now, it would appear that in sections 178 and 179 there are some provisions relating to section 67. Section 178, clause 1, sub-clause (*i*) says "Nothing in any contract between a landlord and a tenant made before or after the passing of this Act shall affect the provisions of section 67 relating to interest payable on arrears of rent". There are some rulings as to the *Mokarari* tenants and the law was amended in 1928 and a proviso was added to section 179, namely "Provided that such proprietor or holder shall not be entitled to recover interest at a rate exceeding that set forth in section 67 * *". The ruling to which reference has been made, deals

with the question as to whether the Act is applicable to pending proceedings. The ruling could not go beyond the statute and the statute is quite clear. So it is absolutely *ultra vires*.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That was the point I was going to mention. What the Raja Bahadur now seeks is to practically amend sections 178 and 179: that will be the only effect if his amendment is accepted. That point was considered more than once by the Legislature and a proviso to section 179 was added. I do not think there is much in what the Raja Bahadur has said. Moreover, there is another point—there is no amendment of the Raja Bahadur for amending section 178 or 179. If only section 67 is amended, that will be inconsistent with the provisions of sections 178 and 179.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I think, I am in order. My idea is to make the section more clear on the line of recent rulings. On the ruling that has been cited I can say from the ruling of the High Court that section 179, however, does not exclude the equitable jurisdiction of civil courts to grant relief in cases of extortionate and unconscionable bargains—"Naba Kumar versus Abdul Jabbar, 20 C. W. N. 112". I want to make this section more clear so that there may not be any ambiguity or any case of litigation in future. So it would affect section 178.

Mr. PRESIDENT: The difficulty of accepting an amendment like this is that it will go directly against sections 178 and 179 and I think you have not considered it from that aspect. Under the circumstances I hold it to be out of order.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I submit that item 169 of the List of Amendments is also outside the scope of the Bill?

Mr. PRESIDENT: Yes, it is also out of order.

Mr. LALIT CHANDRA DAS: I submit, Sir, that my amendment will lessen the burden of the cultivator. Therefore, it is within the scope of the Bill.

Mr. PRESIDENT: I adjourn the House now for prayer.

The House then adjourned for prayer till 6-35 p.m.

(*After adjournment.*)

Mr. PRESIDENT: I hold Mr. Lalit Chandra Das's amendment No. 169 that after clause 19 of the Bill, the following clause be inserted:—

"19A. In section 68(*1*) of the said Act, for the words 'twenty-five *percentum*' the words 'seven and a half *percentum*' shall be substituted."

Out of worder.

The question before the House is that clause 19 stand part of the Bill.

The motion was agreed to.

Clause 20.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, I beg to move that clause 20 of the Bill be omitted.

At this stage I should like to make another appeal to the House and to the Hon'ble Revenue Minister. I would implore them not to do anything which may go to create bitterness in the rural areas. I dare say there is not a single landholder in Bengal who likes to exact *abwabs* from the tenants. I am sure such a desire has no place in their mind. They are now trying to keep their heads above water and have no time or inclination to think of *abwabs*. On the other hand, if the bill-clause under review is retained I am sure there will be bitterness and ill feelings will grow between the landholders and the tenants. Many petty cases will crop up which will go to increase that bitterness. If any zemindar or his agent tries to exact anything from the tenants as *abwabs* there are laws the arms of which are long enough to reach them. These laws are sufficiently deterrent against any such illegal practice. I draw your attention to section 75 of the Act and I will read out the relevant portion of it to show that it is quite sufficient for the purpose. "Every tenant from whom, except under any special enactment for the time being in force, any sum of money or any portion of the produce of his land is exacted by his landlord in excess of the rent or road cess or public works cess or interest lawfully payable, may, subject to the second proviso to sub-section (*2*) of section 74, within six months from the date of the exaction, institute a suit to recover from the landlord, in addition to the amount or value of what is so exacted, such sum by way of penalty as the court thinks fit, not exceeding two hundred rupees; or, when double the amount or value of what is so exacted exceeds two hundred rupees, not exceeding double that amount or value." The new provision in the Bill is not only unnecessary but also provocative.

Another point to which I should like to draw your attention at this stage is that in the bill-clause certain sub-sections of section 58 of the Act have been incorporated, but I find to my astonishment that there is a striking omission, inasmuch as sub-section (*5*) of the Act has been deliberately dropped. It runs thus:—

"Where, in any case instituted under sub-section (*3*), the Collector discharges any landlord or agent, and is satisfied that the complaint of the tenant on which the proceedings were instituted is false or vexatious, the Collector may, in his discretion, by his order of discharge, direct the tenant to pay to such landlord or agent such compensation not exceeding fifty rupees, as the Collector thinks fit."

I am really surprised and I cannot imagine why this most reasonable sub-section has been omitted. Is it not desirable, in the interests of all parties concerned, to see that false cases are not instituted? There is absolutely no reason why this useful safeguard should be dispensed with. But, I appeal to the House to omit the whole bill-clause as worse than useless. It is really not necessary. Under the present laws a zemindar or his agent who exacts anything from the tenant in the shape of *abwab* may be punished. These are sufficiently deterrent against such evil practice. We are getting exasperated because all our amendments are being thrown out and our most cherished and valued rights are being taken away one by one and that in a manner which has really staggered us. I do not see any reason why my appeal in the present case should also go in vain. I should like to request the Hon'ble Minister and also the representatives of the tenants in this House not to turn a deaf ear to it. If the clause providing for summary penalty remains, I am sure it will be abused and the net result will be ever-increasing bitterness between the landlords and the tenants, which is most undesirable. On behalf of the landlords I can assure my friends opposite that it shall be our duty, to see that no illegal exactions are made from the tenants. I am sure the House will agree with me that the clause in question is absolutely unnecessary and the present law is potent enough to cope with the evil. I, therefore, once again appeal to the House with a full heart to accept my reasonable amendment and delete the obnoxious clause altogether.

Mr. PRESIDENT: Motion moved that clause 20 of the Bill be omitted.

Mr. NAZIRUDDIN AHMAD: Sir, I wish to oppose this amendment. It will be seen that from the year 1769 onwards provisions forbidding realisation of *abwab* and punishment for their violation have had to be inserted repeatedly, but in spite of that, this realisation goes on merrily as ever. It has been said by the Maharaja of Santosh that the present law is sufficient. Our experience is that it is not.

With regard to Maharaja's complaint that their amendments are being thrown out without mercy, I might remind him of the advice given to the landlords by one of the foremost landlords of Bengal, the Maharajadhiraja Bahadur of Burdwan, who spoke as the President of the Landlords' Association yesterday. He said "I should be failing in my duty if as a citizen of Bengal and as a landlord I do not point out——

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I rise on a point of order, Sir. We are not in possession of the copy of this speech. Is it permissible to read out extracts from that without making an authentic copy of the speech available to the members of the House?

Mr. NAZIRUDDIN AHMAD: I am reading a speech delivered by the Maharajadhiraj of Burdwan. I take it as part of my speech. "If I do not point out to you the dangers and risk of blind opposition against tenancy legislation——

Mr. PRESIDENT: Please give the substance of it; do not read it.

Mr. NAZIRUDDIN AHMAD: The Maharajadhiraj of Burdwan stresses the necessity of refraining from blind opposition to the tenancy legislation which is under consideration of this House. He thinks that reasonable consideration should be shown and attempts to meet the wishes of the representatives of the tenants would be better both for the tenants and the landlords. Complaint in a bitter spirit is, I think, quite out of place here, and it is this attitude which is creating bitterness between the landlords and the tenants. I submit that the Maharaja of Santosh's assurance that he would try his best to induce all the landlords to stop *abwabs* can be taken as a very sincere one. But there are small fries among the landlords to-day who habitually realise *abwabs* and it is difficult to stop that practice. The provision that is in existence has never been taken advantage of. It is a penal provision and as such, is likely to stop this nefarious practice.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I oppose the amendment. I yield to no one in my anxiety to bring about a better relationship between the landlord and the tenant. I think an enlightened zemindar like my esteemed friend the Maharaja of Santosh should do all that he can possibly do in improving the relations between the two communities.

I need hardly repeat, Sir, that the greatest safety of the landlords lies in creating a better feeling between themselves and their tenantry. Tenants are under the impression—at least their representatives are under the impression—that the evil practice of *abwab* is very much in

vogue in the province and it should be stamped out in the interest of both the communities. I am aware that the British Indian Association has issued an appeal to all landlords requesting them to see that their agents do not exact *abwabs* and I believe the Maharaja of Santosh is one of the signatories.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: We did not admit in that appeal that *abwab* is exacted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Quite so. Personally I do not believe that by legislation we can stamp out any evil, specially an evil that has been in existence for the last many years. It is only by the pressure of public opinion that such an evil can be eradicated; but at the same time the tenants' representatives are anxious that some provisions should be placed on the Statute Book which may have a moral effect and may have a deterrent effect on the agents of landlords. That is why Government have agreed to this provision.. But whether it will be effective or not will depend on the co-operation of both parties, namely, landlords and tenants. If both of them agree to co-operate in eradicating the evil, then and then only can it be really done away with.

Mr. KADER BAKSH: Mr. President, Sir, I want to say only a few words. I believe most sincerely that the Maharaja of Santosh never had any occasion to exact any *abwab* from his tenants. I believe this, Sir, in all sincerity, but at the same time it is a fact that the Maharaja of Santosh has had to issue out a letter, or rather an appeal, that the zemindars should not exact any *abwab* from their tenants. In doing so he must have believed that there are some zemindars who are exacting *abwabs*. I think that when the several deterrent sections in the Act could not prevent these zemindars from exacting *abwabs*, the Maharaja of Santosh need not be afraid if strict steps are now taken to prevent their realisation. So, it is better that such a strict clause be put in the Bill to deter them from doing anything of this kind.

Mr. HUMAYUN KABIR: Sir, I would oppose the amendment of the Maharaja of Santosh and for the very reasons which he has mentioned himself. He says that landlords do not exact *abwabs* and therefore, this clause is not necessary. I hope he is correct in his statement that the landlords do not exact any *abwabs*. In that case the landlords need not fear anything if such a clause is enacted, for if they do not commit the mischief contemplated here then they will come under the operation of this section, but on the other hand, if this gives an assurance and a certain amount of confidence to the tenants, there is no reason why the landlords should not grant that additional security to their tenants. It is simply a case of making assurance

doubly sure. Therefore, on the very ground that has been advanced by the Maharaja himself I oppose the amendment as I think that such a clause should be there.

Mr. PRESIDENT: The question before the House is that clause 20 of the Bill be omitted.

The motion was lost.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, I beg to move that sub-section (5) of section 58 of the Act be also included and inserted in the appropriate place in proposed section 74A and that the following new section be added after section 74A, namely:—

> "74B. If a tenant or any one acting on his behalf have recourse to bribery in any shape whatsoever to evade payment of fair and equitable rent or to undervalue or hide from his landlord, a certain *jama* or take any unauthorised remission of rent and other legitimate dues or take possession of any *khas* land without the knowledge and consent of the landholder shall be liable to the summary penalty in the same manner as prescribed in section 74A."

Sir, I very much expected that the hand of friendship which I had extended to the representatives of the tenants in this House would be grasped with both hands and I would not have the painful necessity of moving this amendment. But I am really sorry that they were not prepared to do so, and the Hon'ble Revenue Minister, who is perhaps about to be carried off his feet by the dictates of his party is unable to resist the reactionary forces behind him. In these circumstances, I am compelled to move this amendment.

Sir, my friend Mr. Kabir said that, because I thought that the evil complained of did not exist at the present moment, or the present circumstances were such that the evil could not stand and continue, the landholders need not be afraid of the Bill clause. I think, Sir, that argument strengthens my present amendment. If the tenants are above such corrupt practices as I have mentioned in my amendment, their representatives in this House and for that matter the Hon'ble Revenue Minister, who is playing the roll of their Guardian Angel, should not object to my reasonable amendment. Let the balance be held evenly between both sides; if the zemindar or his agents do something which is illegal, something which is atrocious, let them be punished, but let also those tenants who try to deceive the landlords, who have no respect for the rights of others and have recourse to corrupt practices to achieve their selfish ends, be similarly dealt with

and punished. I hope that those who say that the bill-clause in question should be retained in order to eradicate an evil, will give their support to my amendment, so that another evil, by no means a lesser evil, may be also similarly eradicated.

Mr. PRESIDENT: Motion moved that sub-section (*5*) of section 58 of the Act be also included and inserted in the appropriate place in proposed section 74A and that the following new section be added after section 74A, namely:—

"74B. If a tenant or any one acting on his behalf have recourse to bribery in any shape whatsoever to evade payment of fair and equitable rent or to undervalue or hide from his landlord, a certain *jama* or take any unauthorised remission of rent and other legitimate dues or takes possession of any *khas* land without the knowledge and consent of the landholder shall be liable to the summary penalty in the same manner as prescribed in section 74A."

Mr. KADER BAKSH: Again, Sir, only a few words. I beg to submit that this amendment has been moved only in a spirit of revenge. The Maharaja has been very liberal to his agents. The tenants cannot give bribe to anybody else except to his own amlas, tashildars and other officers. If the officers take bribes the Maharaja Bahadur ought to be in a position to control them, and if they cannot be so controlled they must be certainly held to have virtuous souls!

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I do not agree with the argument put forward by my friend, Mr. Kader Baksh. There are principals with much greater influence who cannot control their agents, no to speak of the poor zemindars. But at the same time I agree with him that there should be no spirit of vindictiveness, and this amendment is liable to be misunderstood by the tenants as exhibiting that spirit. So I would request my zemindar friends to be generous, and I am sure in the long run they will be the gainers. There are mischief-makers and I appeal to the landlords not to play into their hands. Let them be imbued with a generous spirit, but I am sure they will benefit at the end.

Mr. PRESIDENT: The question before the House is that sub-section (*5*) of section 58 of the Act be also included and inserted in the appropriate place in proposed section 74A and that the following new section be added after section 74A, namely:—

"74B. If a tenant or any one acting on his behalf have recourse to bribery in any shape whatsover to evade payment of fair and equitable rent or to undervalue or hide from his

landlord, a certain *jama* or take any unauthorised remission of rent and other legitimate dues or takes possession of any *khas* land without the knowledge and consent of the landholder shall be liable to the summary penalty in the same manner as prescribed in section 74A".

The motion was lost.

Mr. HUMAYUN KABIR: Mr. President, Sir, I beg to move that in clause 20 of the Bill, at the end of sub-section (*1*) of proposed section 74A, the following provisos be re-inserted, namely:—

"Provided that summary penalty inflicted on a landlord for realisation of *abwabs*, etc., mentioned in this section shall not operate as a bar to a tenant's seeking relief by a suit under section 75:

Provided further that this section shall not be a bar to his prosecution under the Indian Penal Code or any other Law for the time being in force."

This, Sir, only aims at restoring what was in the Bill before it went to the Select Committee. These two provisos were omitted in the Select Committee because it was argued by certain members that it was not necessary. My argument is that if this is already included in the Bill there is no harm in making it more explicit. If it is included there, why not make it more explicit, by this amendment? In this connection, I would also attempt to reply to the argument advanced by the Maharaja Bahadur of Santosh in connection with his amendment. Sir, there is a difference between the landlord and the tenant, because the landlord with his superior position and advantage, with his money and influence, and his knowledge is able to go to court, which the tenant cannot do. It is the tenant who requires protection and not the landlord. Therefore, the Legislature should always try to protect the weaker interests and not the powerful interests. That is why I move that these two provisos be included in the Bill.

Mr. PRESIDENT: Motion moved that in clause 20 of the Bill, at the end of sub-section (*1*) of proposed section 74A, the following provisos be re-inserted, namely:—

"Provided that summary penalty inflicted on a landlord for realisation of *abwabs*, etc., mentioned in this section shall not operate as a bar to a tenant's seeking relief by a suit under section 75:

Provided further that this section shall not be a bar to his prosecution under the Indian Penal Code or any other Law for the time being in force."

Mr. NAZIRUDDIN AHMAD: Sir, I rise to oppose this amendment on the ground that it offends against the well-known rule against redundancy. The amendment really belongs to the domain of the Code of Criminal Procedure and not the present Bill. Section 403 (*2*) of that Code provides for a separate trial of distinct and different offences like these by another court and a prosecution under the Penal Code will not be barred. Then again, the offence created by the Bill clause is triable by a Collector, and the relevant offences under the Penal Code are triable by a Magistrate, and a Collector has no jurisdiction to try offences under the Penal Code. Section 403 (*4*) of the Code of Criminal Procedure provides that if the court which tried the first offence (under the Tenancy Act) has no jurisdiction to try the subsequent offence (under the Penal Code) such subsequent trial is not barred. I submit that this amendment is absolutely redundant, and if a provision like this is inserted, it might also encourage fruitless prosecutions. There is, in any case, no point in introducing a legislative provision which is already amply provided for in a more appropriate enactment. It is only confused draftsmanship. On these grounds, Sir, I oppose this amendment.

Mr. PRESIDENT: The question before the House is that in clause 20 of the Bill, at the end of sub-section (*1*) of proposed section 74A, the following provisos be re-inserted namely:—

"Provided that summary penalty inflicted on a landlord for realisation of *abwabs*, etc., mentioned in this section shall not operate as a bar to a tenant's seeking relief by a suit under section 75:

Provided further that this section shall not be a bar to his prosecution under the Indian Penal Code or any other Law for the time being in force."

The motion was lost.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I beg to move that in clause 20 of the Bill, in sub-section (*2*) of the proposed section 74A, the words "and the order passed by the District Judge on such appeal shall be final" be omitted.

Sir, my submission is that these words are redundant, because by simply saying that they are final, it would not be final so far as the High Court is concerned, and because clause 15 is there, it would not be applicable in all circumstances. Therefore, it is no good putting it there.

Mr. PRESIDENT: Motion moved that in clause 20 of the Bill, in sub-section (*2*) of the proposed section 74A, the words "and the

order passed by the District Judge on such appeal shall be final" be omitted.

Mr. NAZIRUDDIN AHMAD: Sir, I rise to oppose this amendment on the ground that if it is carried, it will allow a fresh appeal in the High Court which will only benefit a class of lawyers who practise there.

Mr. PRESIDENT: The question before the House is that in clause 20 of the Bill, in sub-section (2) of the proposed section 74A, the words "and the order passed by the District Judge on such appeal shall be final" be omitted.

The motion was lost.

Mr. PRESIDENT: The question before the House is that clause 20 stand part of the Bill.

The motion was carried.

Mr. MUKHLESUR RAHMAN: May I draw your attention to the fact that we are due to rise at 7-15 p.m.? Clause 21, Sir, is a very important clause and there are a number of amendments to it. As we have just five minutes left, and as it would be impossible to dispose of this clause within so short a time, I would suggest that the House may be now adjourned.

Mr. HAMIDUL HUQ CHOWDHURY: I think you have been pleased to fix 7-15 p.m. as the time for closing to-day's debate, and I have no objection to taking up clause 21, if you, Sir, think that it would be possible to finish it within five minutes.

Mr. PRESIDENT: May I have your opinion, Maharaja Bahadur of Santosh?

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: If it is your desire, Sir, to proceed with clause 21, I have no objection.

Mr. PRESIDENT: In that case it is better for you to move the amendment standing in your name.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I think it is useless to move this amendment No. 181 but if you permit me, I shall move the latter one standing in my name which deals with section 75A. I am however not sure whether the Raja Bahadur of Nashipur who is not present here now or Khan Sahib Abdul Hamid Chowdhury would move it.

Khan Sahib ABDUL HAMID CHOWDHURY: I will not move, Sir.

Mr. PRESIDENT: If this amendment fails, the latter amendments can be taken up; but if this is not moved, I do not know whether they can be taken up.

I find, however, that this clause will take a long time to finish. I therefore propose to adjourn the House now.

Adjournment.

The Council then adjourned till 10-30 a.m. on Friday, 1st April, 1938.

Members absent:

The following members were absent from the meeting held on the 31st March, 1938:—

(1) Datta, Mr. Narendra Chandra.

(2) Haider, Nawabzada Kamruddin.

(3) Hossain, Mr. Mohamed.

(4) Lamb, Mr. T.

(5) McFarlane, Mr. J.

(6) Mookerji, Dr. Radha Kumud.

(7) Ormond, Mr. E. C.

(8) Ray, Mr. Nagendra Narayan.

(9) Sinha, Rai Bahadur Surendra Narayan.

B. G. Press—1938-39—3837A—900.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Friday, the 1st April, 1938, at 10-30 a.m., being the thirty-first day of the First Session, pursuant to section 62(2)(*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Scheme for Sports' Stadium in Calcutta.

306. Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if his department has examined the scheme for a sports' stadium in Calcutta which was submitted to that department some time ago?

(*b*) If so, will he be pleased to inform the House how the matter stands now?

(*c*) Has the scheme been wholly approved or disapproved?

(*d*) If partially disapproved, will he be pleased to state what is that and what change his department proposes to make therein?

(*e*) If the whole scheme has been disapproved, has the Home Department undertaken to produce a scheme of its own?

(*f*) Is he considering the desirability of holding a joint conference of official experts and representative non-officials who are interested in this scheme to come to an agreed settlement?

(*g*) Is the Hon'ble Minister aware that there is a persistent demand for a sports' stadium in Calcutta and that sporting circles in the country have grown restive over the delay?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) to (*e*) The matter is still under consideration of Government.

(*f*) No.

(*g*) I am aware of such a demand, but I have no information that anybody has become restive over the matter.

Maulana MUHAMMAD AKRAM KHAN (in Bengali): When does the Hon'ble Minister expect to arrive at a final decision about the matter?

The Hon'ble Khwaja Sir NAZIMUDDIN: It is difficult to say, Sir. It is a problem that is not easily solved. But I have got a definite scheme and I am working on that, and I hope when pressure of work will diminish, I will be able to announce that scheme to the public.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Is the Hon'ble Minister prepared to take into his confidence those who are interested in the scheme before it is given final touches?

The Hon'ble Khwaja Sir NAZIMUDDIN: Certainly, as soon as I have been able to put it in a more definite form, I may inform those who are interested——

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: You may or you will?

The Hon'ble Khwaja Sir NAZIMUDDIN: I shall specially explain my scheme to the Maharaja.

Chief Executive Officer of the Calcutta Corporation.

307. Khan Bahadur ATAUR RAHMAN (on behalf of Mr. Humayun Kabir): (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state when the office of the Chief Executive Officer of the Calcutta Corporation was first created and at what salary?

(*b*) What was the salary of the same in 1924?

(*c*) When was the present incumbent of the post first appointed to the post and at what salary?

(*d*) What is his present salary?

(*e*) Has the appointment of the present incumbent been renewed since his first appointment to the post?

(*f*) Are there any age-limits prescribed by the Government for the post? If so, do the Government propose to enforce its observance?

(*g*) What is the age of the present incumbent of the post?

(*h*) Is it a fact that there is a proposal to further extend the period of service of the present incumbent? If so, by what period?

(*i*) What action, if any, do the Government propose to take to secure the reduction of the salary of the office in view of the general demand for retrenchment?

MINISTER in charge of the PUBLIC HEALTH and LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Syed Nausher Ali): (*a*) In 1924 with a monthly salary of Rs. 1,500.

(*b*) Rs. 1,500 per mensem.

(*c*) From the 15th December, 1924, on a salary of Rs. 1,500 per mensem.

(*d*) Rs. 2,900 in the grade of Rs. 2,500—100—2,900.

(*e*) Yes.

(*f*) No.

(*g*) Fifty-six years and eight months.

(*h*) No such proposal has yet been submitted to Government and Government have, therefore, no official information on this point.

(*i*) The question will be considered by Government when the matter comes up before them.

Ranchi Mental Hospital.

308. Khan Bahadur ATAUR RAHMAN (on behalf of Mr. Humayun Kabir): (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state whether the Government of Bengal made any contribution towards the establishment of the Ranchi Mental Hospital? If so, what is the amount?

(*b*) Do the Government of Bengal make any annual grant towards the upkeep of the said hospital? If so, what is the amount and what proportion it is of the total annual maintenance cost?

(*c*) What are the conditions governing admission of patients from Bengal to the said hospital?

(*d*) Are there any differences as regards the conditions of admission in the case of European and Indian patients from Bengal? If so, what are the differences, and what reasons are there for such discriminatory treatment?

(*e*) Is it a fact that in the case of Indian patients, admission is not available till they are certified after observation to be dangerous lunatics? If so, what is the significance of the epithet "dangerous"? What are the conditions and procedure of such certification?

The Hon'ble Mr. SYED NAUSHER ALI: The information is not completely available in the Secretariat. Reference has been made to the Superintendents of European and Indian Mental Hospitals at Ranchi. The information will be furnished as soon as all materials are available.

GOVERNMENT BILL.

The Bengal Tenancy (Amendment) Bill, 1938.

Mr. PRESIDENT: The House will now resume discussion of the Bengal Tenancy (Amendment) Bill, 1938. We were dealing with clause 21. Maharaja of Santosh!

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, I beg to move that in clause 21 for proposed section 75A, the following section be substituted, namely:—

"75A. The Provincial Government may, by notification in the *Official Gazette*, suspend with effect from any date which may be determined by Government after the commencement of the Bengal Tenancy (Amendment) Act, 1938, in such area and for such period as may be specified in the notification, any or all of the provisions of this Act, except section 52, relating to the enhancement and reduction of rent."

Sir, last night I made a fervent appeal to the Coalition party to try to hold the scales evenly between the landholders and the tenants and to do all that they possibly can to see that the relation between the landholder and the tenant is in no way embittered. I am going to repeat that appeal to-day and that with all emphasis I command; but, I am afraid it will probably fall on deaf ears. But "hope springs eternal in human breast" and I must continue to hope that better sense will prevail, and they will ultimately recognize the justness of my proposal. Now, what is the idea behind the proposal that I have made? The idea is to maintain *status quo*. If there is to be no enhancement of rent, let there be no reduction of rent. Let the original clause of the Bill, as it was introduced before the Assembly, be restored. I do not know why Government took it into their head to change that clause at the last moment. Perhaps, it was under the pressure of currents and under-currents in the Assembly.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Not blood pressure at least!

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Not blood pressure, but through some trouble of the heart.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: My heart is sound.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: But, blood pressure is a lesser evil than heart disease. Any

way, the Hon'ble Revenue Minister seems to have been under the impression that if he would try to impose any restriction on the provisions for reduction of rent, his popularity will suffer, and his position in the Cabinet will become more shaky. (Hear, hear.) But his duty is not merely to keep his place in the Cabinet, but to exercise his influence on behalf of right. Well, we are getting exasperated, because our motions are being mercilessly thrown out. It is a natural sequence that a community with any sense of self-respect would get exasperated by a series of hostilities from an unexpected quarter. To-day, because I am making an ardent appeal, he foolishly thinks that I am suffering from blood pressure; but, he looks very small when I rightly diagnosed the malady of his heart. May I now tell him that the sooner he cures himself of that disease the better for him? A weak heart is worse than a weak brain.

Let him not forget that the day of reckoning is sure to come. Our cherished and valued rights cannot be ruthlessly taken away from us with impunity. If he has really got any power, if he has really got any influence over his colleagues, let him cry halt to hurricane methods. But that is a different matter. I have no intention to say anything in an excited mood. I wanted to make an appeal, and I made it with absolute coolness. but my friend unfortunately interrupted me.

I once more appeal to my friends on my left to seriously consider as to whether or not justice and equity demand that if the provisions relating to enhancement of rent are suspended, the provisions relating to reduction of rent should also be suspended. Let us wait and see what the Revenue Commission do. If they want to retain the provisions relating to reduction of rent, let them do so. On the other hand, if they want to abolish all provisions both in respect of reduction and enhancement of rent, let them do so; but, until then, let us maintain the *status quo*, by restoring the original clause of the Bill, the original clause as it was when the Bill was introduced before the Assembly. I have made slight alterations in it, here and there, but in essence it remains the same. If the Hon'ble Minister wishes to have the very words that were employed in drawing up that clause, let him do so. I have not the least objection to accept those very words, but let justice be done. Let the scales be held evenly between the two parties concerned. There should not be any preferential treatment as between landholders and tenants. If in spite of the fact that enhancement is due under contracts relating to agricultural land, provisions relating to the same are suspended, if the sanctity of such contracts is not to be respected, because in the opinion of the Government a crisis has arisen, let the provisions that are in force relating to reduction of rent be also suspended. Let *status quo* be maintained. Sir, I shall be infinitely grateful to the Coalition party if they kindly lent their support to this my most reasonable proposal.

Mr. PRESIDENT: Motion moved that in clause 21 for proposed section 75A, the following section be substituted, namely:—

"75A. The Provincial Government may, by notification in the *Official Gazette*, suspend with effect from any date which may be determined by Government after the commencement of the Bengal Tenancy (Amendment) Act, 1938, in such area and for such period as may be specified in the notification, any or all of the provisions of this Act, except section 52, relating to the enhancement and reduction of rent."

Mr. NAZIRUDDIN AHMAD: Sir, the hon'ble leader of the Progressive party, the Maharaja of Santosh, has anticipated the opinion that his appeal will fall on deaf ears, but I can assure him that it has not fallen on deaf ears, but rather on terrified ears, because it is with a troubled heart that I have to oppose this motion. With a clear conscience I feel that this is really a very beneficial measure, and as such it is impossible for us to agree that Government should be given the power to suspend the Act in any area and for any length of time whatsoever according to their sweet will. If it is done so, it will naturally be doing away with a beneficial Act which both the Houses are going to pass.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, as regards the wording of this section, I do not take the full responsibility. The responsibility is of the Legislature. In fact, I was responsible for the section of the Bill as introduced in the Assembly, but certainly that Legislature had the full right to redraft it, and it was so redrafted, not at my instance, but at the instance of the representatives of the people. So Government have naturally to bow down to that.

Mr. HUMAYUN KABIR: Were you not a mouth-piece of the committee which redrafted it?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, but there are such cases where the tail wags the dog, and it was a case like that. So I am not responsible for the wording, and I am afraid when it will be taken before the High Court or any other judiciary, the whole thing will be torn to pieces. That is my apprehension, and so I do not try to justify the wording as it is on merits, but this is inevitable and I will ask my hon'ble friend the Maharaja, with whom I have got every sympathy, to consider this point. I can assure him that my heart is as sound as ever whether I suffer from blood-pressure, high or low.

Mr. PRESIDENT: If the Government feel that the language is not happy in the Bill, then the Chair will be glad to accept any amendment that Government may propose.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir, Government are not going to move any amendment.

Mr. PRESIDENT: The question before the House is that in clause 21 for proposed section 75A, the following section be substituted, namely:—

"75A. The Provincial Government may, by notification in the *Official Gazette*, suspend with effect from any date which may be determined by Government after the commencement of the Bengal Tenancy (Amendment) Act, 1938, in such area and for such period as may be specified in the notification, any or all of the provisions of this Act, except section 52, relating to the enhancement and reduction of rent."

The motion was lost.

Rai BROJENDRA MOHAN MAITRA Bahadur: Sir, I beg to move that in clause 21 of the Bill, in sub-sections (*1*) and (*2*) (*a*) of proposed section 75A, the words, figure and brackets "(including section 52)" be omitted.

Sir, I do not wish to advance any argument on that point, but I wish to place before the House the note circulated by the Director of Land Records on this subject, if you will kindly permit me to do so. The note supplied to the members of the Select Committee is this:—

"A piece of land which is added to a tenancy is liable to such assessment of rent as may be considered fair. This is an inherent right of the zemindars. Persons who have derived their title from the zemindars are entitled to exercise that right in view of the terms of the Permanent Settlement. I would draw their attention in this connection to section 52 of Regulation VIII of 1793 in which definite power 'to let remaining lands as they thought proper' has been categorically conceded to the zemindars, and the concession was included in the terms of the Permanent Settlement and specifically explained without equivocation in section 31 of Regulation II of 1819. I would submit for your consideration if an embargo on the exercise of that right thus will not infringe the provisions of the Permanent Settlement and convert the Bill to one of the type referred to in paragraph XVII (*d*) of the Instructions to Governor issued under the Government of India Act of 1935. Equitably it seems to me that this is a fundamental conception never questioned, that for an area not included in the tenancy

of a tenant, the latter is liable to pay fair rent to the landlord. Conversely, a tenant is entitled to reduction of rent for reduction in area that goes out of the tenancy. It will be unfair to deny him this right and hold him responsible for rent of an area he no longer possesses.

The reasons stated above apply with still stronger force to lands which had never been the subject of tenancy and accreted as an accession from the public domain. Such lands must unquestionably be held as *res nullius* and could never be held to be 'in occupation' of a tenant. Conversely the tenant is entitled to reduction of rent on that which being included in the tenancy and subjected to rent diluviates, if he so desires."

With these remarks, I recommend this amendment to the House.

Mr. PRESIDENT: Motion moved that in clause 21 of the Bill, in sub-sections (*1*) and (*2*) (*a*) of proposed section 75A, the words, figure and brackets "(including section 52)" be omitted.

Rai MANMATHA NATH BOSE Bahadur: Mr. President, Sir, you will find that amendment Nos. 183 and 184 of the List of Amendments stand in my name. So I wish to move these two and say something.

Mr. PRESIDENT: The first one need not be moved. You may move the second one and speak on both.

Rai MANMATHA NATH BOSE Bahadur: I beg to move that in clause 21 of the Bill, in the proposed section 75A, for the word "including" wherever it occurs, the word "excluding" be substituted.

Sir, my proposal is to exclude section 52. Section 52 does not relate to enhancement of rent but to alteration of rent for alteration of area. Hence this section should not have been included. When a tenant has by some means encroached on the lands of the landlord or gained lands by accretion and has included it within his *jote*. without a semblance of title to it, it is but natural justice that he should pay rent for the area thus included. To allow a man—be he a raiyat, an under-raiyat or a tenure-holder,—to possess another's land without any liability to pay rent or to be exempted from such liability, is not only unfair but extremely improper, inequitable and illegal. Besides, when a tenant encroaches on the adjoining land, the landlord may either sue him for rent of that land or eject him therefrom. If the landlord is not allowed to sue him for rent of the encroached land, he will have no other alternative than to sue him for ejectment. May I enquire if this will be good for the tenant? Therefore, I am of opinion that section 52 should not be included. Moreover, the Director of Land Records, who is an experienced officer, is also of this opinion, and I do not understand why Government have not found their way to accept his view.

Mr. PRESIDENT: Motion moved that in clause 21 of the Bill, in the proposed section 75A, for the word "including," wherever it occurs, the word "excluding" be substituted.

You can speak on both the amendments, Mr. Das.

Mr. LALIT CHANDRA DAS: As a matter of fact, Sir, amendment No. 183 of the List of Amendments also stands in my name as you will find that my name appears next to that of Rai Brojendra Mohan Maitra Bahadur.

Mr. PRESIDENT: That is all right. You should now go on with your speech.

Mr. LALIT CHANDRA DAS: Sir, speaking on these amendments, I beg to say that in this new section 75A provision has been made for the suspension of enhancement of rent. So far as enhancement of rent is concerned, it has been suspended for ten years with effect from 27th August, 1937. Sir, section 52 is in chapter VIII of the Act. That chapter, Sir, relates to general provisions as to rent—never, Sir, with respect to enhancement of rent. Provisions as regards enhancement of rent are contained in sections 6 to 9 in chapter III, in sections 27 to 37 in chapter V, and in sections 48A and 48B of the Act. From the marginal notes to section 52, it would appear that there is mention of alteration of rent in respect of alteration of area. So, when section 75A was inserted in the Bill, it was shown as purely in reference to suspension of enhancement of rent. How could this section 52 be suspended passes my comprehension. As a matter of fact, when a tenant has succeeded in including lands in his tenancy to which he had not the least right, it is only natural justice that, when detected, he should be made to pay for it. Supposing a tenant has five *bighas* of land and immediately contiguous to his land there is a big plot of *khas patit* land belonging to the landlord; supposing again that in the village there are two persons who happen to be most powerful there and that these two persons take it into their heads to possess this land as between themselves to the exclusion of the rest of the villagers, then what will happen? What natural justice is there that this big plot of *khas patit* land, which was lying fallow so long, should be enjoyed by one or two persons of the village without any payment of rent? I submit, Sir, that this is opposed to justice, to fair play, and to equity, and, therefore, I say that the inclusion of section 52 in the new clause 75A, which relates to suspension of provisions relating to enhancement of rent, is not only unfair but also illegal.

With these few words, Sir, I support these two amendments.

Mr. HUMAYUN KABIR: Mr. President, Sir, I would submit at this stage that if all these amendments are taken up together and votes are taken afterwards, then these amendments might be decided in a particular way. For example, if some of the amendments standing in my name, namely, Nos. 193, 194 and 197 of the List of Amendments, are carried then, we are prepared to support this amendment, but if that is not done, we shall feel bound to oppose it.

Mr. PRESIDENT: All right, you can move your amendments.

Mr. HUMAYUN KABIR: Sir, with your permission I beg to move all the three amendments standing in my name.

I beg to move that in clause 21 of the Bill, in sub-section (*2*) (*a*) of the proposed section 75A, for the words and figures "the twenty-seventh day of August, 1937", the words and figures "14th April, 1907", be substituted; that in clause 21 of the Bill, in sub-section (*2*) (*a*) of the proposed section 75A, the words and figure "and before the date of commencement of the Bengal Tenancy (Amendment) Act, 1938", be omitted; and that in clause 21 of the Bill, in sub-section (*2*) (*a*) of the proposed section 75A, for the words "the date of such decree or order", the words and figures "the 14th April, 1938", be substituted.

Sir, I shall first try to explain the nature of my amendments to the hon'ble members of this House. At present bill-clause 21 provides that there will be suspension of enhancement of rent as from 27th August, 1937. In other words, since we are already in the year 1938, if this bill-clause is carried, there will be retrospective reduction of rent in respect of all enhancements which have come into being after the 27th day of August, 1938. Therefore, Sir, the first point to notice is that the principle of giving retrospective effect with regard to reduction of rent has already been accepted by Government, but they have chosen an arbitrary date. They have chosen the 27th day of August, 1937, presumably because the Bengal Tenancy (Amendment) Bill, 1938, was introduced on that day. But I submit that there is no justification for choosing this date, when principle of reduction of rent is once accepted.

Now, Sir, my contention is that if Government have accepted the principle of reduction of rent, they have done so for very good reasons, and I shall try to add some more reasons to show why this principle should be accepted.

Once this is accepted, we have next got to decide what should be the extent of the reduction and also from what time such reductions should come into operation. If my amendments are carried, the result will be that the level of rent will be reduced to what it was on the 14th April, 1907, and this will come into force as from 14th April, 1938. I have

chosen the date 14th April in both cases deliberately, because that is the day from which all calculations of rent in Bengal begin. It corresponds to the 1st of Baisak from which date, as I have already said, the agricultural year begins.

Then the question may be asked as to why we should go back to 1907, i.e., thirty years ago. The reasons for that are obvious. First of all, under the provisions of the Bengal Tenancy Act, as they exist to-day, enhancement of rent is possible only once in every fifteen years. I have, therefore, taken two periods of such possible enhancements. If we go back thirty years, we would nullify the enhancements that might have been made during the last two periods of fifteen years each, and, in this way, grant substantial relief to the tillers of the soil. Further, Sir, the year 1907 has been chosen by me, because that represents the standard or norm which we have often used in order to measure the level of price. In 1907, the average price of rice was Re. 1 for seven seers, and after that from 1909, there were violent fluctuations of prices with alternate years of slumps and booms. Since 1909, the prices of rice and other staple crops have been fluctuating violently. The reason for that is quite obvious. From 1911 there were disturbances in Europe, and this had an immediate effect upon the condition of the market in Bengal. In 1914, the Great War began, and there were corresponding variations in the prices, and from 1919 there was a boom in prices. Therefore, Sir, I submit that from 1909 up till 1931 there have been constant variations in commodity prices with a fall in prices in 1931 which is perhaps unprecedented. The agriculturist was brought to the verge of ruin in the year 1931 on account of the catastrophic fall in prices. Now, Sir, the price level to-day is about the same as it was in 1907, as I stated a moment ago, and as will appear from the figures given in the *Calcutta Gazette*. From these official figures, we find that the price of rice is to-day Re. 1 for seven or eight seers—almost the same as in the year 1907.

To-day, again, it is about seven to eight seers per rupee, in other words, there has been a complete rotation in price; after all sorts of fluctuations, prices have come back to the same level where they were thirty years ago. On these two grounds, I think that 1907 is the year the rent of which should be restored, if we want to give any real relief to the tillers of the soil.

Then, Sir, in connection with this, there is the further question about the necessity of such reduction of rent. The Maharaja of Santosh has raised the question that legislation should not be one-sided. If there is to be any provision affecting the relations between the landlord and the tenant, it should look to the interest of both. Yes, we agree, it should not be one-sided; and because the relation between the landlord and the tenant was very very one-sided in the past, and the advantage was entirely on one side, we feel that the

balance should now be redressed and the injustice which was done to the tenants in the past should at least to some extent be compensated. Of course, I do not for a moment say that this Bill will in any way compensate those tenants who actually suffered in those intervening years. But even if we forget the amount of human suffering involved on account of the action taken by the landlords in enhancing rent, we can at any rate, at this belated period, do some justice to the successors of the tenants who were oppressed.

We have got some interesting figures from the records which were responsible for the establishment of the Permanent Settlement in Bengal. From those figures, we find that when the Permanent Settlement was introduced in this province, the revenue was fixed at a level of Rs. 2½ crores or to be exact Rs. 2·57 crores. Out of that only, 10 per cent. was fixed as the share of the zemindars as their collection charges and their profit. Therefore, Sir, it was thought that only one-tenth of the rent which was paid by the tenants should be enjoyed by the landlords as recompense for their labour and trouble in collecting the rent as well as for their profits. To-day, what is the position? From the figures which were adduced yesterday, we know that the tenants pay rent in the neighbourhood of Rs. 17 or Rs. 18 crores and the revenue has remained stationary. From about Rs. 25 lakhs, the share of the landlords has increased to 13, or 14, or it may be even 15 crores of rupees, which is an increase unprecedented in the history of the world. Therefore, transactions in the past have been entirely for the benefit of the landlords and that is why we accept the principle which the Maharaja of Santosh has laid down that there should be fairness in dealings between the landlord and the tenant. It is because we want that principle to be followed that we want that the rent should be reduced to the level which existed thirty years ago. That is why we want to grant relief to the tenants to that extent which is necessary in order to save them from the position to which they have been brought to-day.

There are other considerations in this connection, but I would only urge upon this House that if we want to grant relief, we must grant relief which is substantial. There is no point in granting nominal relief to the tenants. The Bill which has been brought forward by Government has accepted the principle of granting reduction with retrospective effect, but it has not touched even the fringe of the problem, as reduction has been allowed only from the 27th August, 1937. Therefore, the relief which is sought to be granted is illusory; it is not real relief.

From the reasons which I have advanced, it is clear that the level of price to-day is approximately the same as it was thirty years ago. We must also remember that during this period, we had settlement operations in the course of which rent has often been increased by 25 per

cent. or by even greater percentage. During this period of thirty years, the landlords had two periods of fifteen years each during which they had opportunities of increasing their rent and of which they took full advantage. Again in the years following 1919, they had an opportunity of increasing rent on the ground of increase in the price of agricultural commodities. But when the slump came in 1930 and prices crashed, was there any reduction of rent by landlords? Therefore, the Legislature should hold the balance even between the landlord and the tenant and restore the rate of rent which will give the tenant the chance of maintaining himself under human conditions and in a human way.

I would conclude by saying that the Maharaja of Santosh has often referred to the representatives of tenants. In a sense, everyone in this House is a representative of the tenant. Ninety per cent. of the people of this province are agriculturists and so everyone in this House is a representative of the tenants. Most of us have, however, no direct personal interest in what happens to the tenants. When the Maharaja referred to the representatives of the tenants, if his implication was that certain members of this House have been behaving in a particular way, because they represent the interests of the tenants as opposed to the interest of the country, he is entirely wrong. We feel for the welfare of the people. There must be a happier and prosperous tenantry in order to improve the conditions of the country. The tenantry must be placed in a position where they may live a human mode of life and share in the task of national reconstruction; for this we feel that the tenants must be given necessary relief.

With these words, I commend my motion to the acceptance of the House and I think it will not be unfair to say that this will serve as a test which will differentiate between those who want to give real relief to the tenants and those who do not.

Mr. PRESIDENT: Motions moved that in clause 21 of the Bill, in sub-section (*2*) (*a*) of the proposed section 75A, for the words and figure "the twenty-seventh day of August, 1937", the words and figures "14th April, 1907", be substituted; that in clause 21 of the Bill, in sub-section (*2*) (*a*) of the proposed section 75A, the words and figure "and before the date of commencement of the Bengal Tenancy (Amendment) Act, 1938", be omitted; and that in clause 21 of the Bill, in sub-section (*2*) (*a*) of the proposed section 75A, for the words "the date of such decree or order", the words and figures "the 14th April, 1938", be substituted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: On a point of order, Sir. I venture to submit that these amendments of Mr. Humayun Kabir are entirely out of order. They are outside the

scope of the Bill, because the bill-clause only suggests that "all decrees and orders enhancing rent passed under any of the provisions of this Act including section 52 on or after the twenty-seventh day of August, 1937, and before the date of the commencement of the Bengal Tenancy (Amendment) Act, (1937) 1938, are hereby declared to be inoperative." The idea was that the Bill was going to be published on the 27th August, 1937, so that the landlords should not waste their money on enhancement suits any more, because Government wanted to stop all enhancements from the date of the publication of this Bill in the *Calcutta Gazette*. That was the idea. There is no proposal for reduction of rent in this clause. The reduction of rent really comes under section 38 of the Bengal Tenancy Act; so reduction is not contemplated in this bill-clause. That is why I submit that these amendments are entirely outside the scope of the Bill. If that is your ruling, then the matter falls through; if not, I shall speak on the merits of the question later on.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I submit, that is an excuse of the Hon'ble Minister to exclude the consideration of these amendments. The scope of the Bill is clearly laid down in the proposed section. The section refers to all decrees passed on a date which he described as August, 1937,—certainly that is retrospective. So far as that is concerned, he has fixed a retrospective date. He says that 27th August, 1937, is the date from which this section will come into operation. The proposal is that instead of the figure "1937", it should be changed into "1907", or it may be changed into "1917". But where is the defect in that? You yourselves have made the provision retrospective. If your Bill had provided for the enactment of a provision for the future, you could say that you had made a distinction. But as your Bill makes provision for retrospective operation, what is the harm in having the date further shifted back? So I submit that it cannot be argued that the amendments are out of order. In that case no amendment can be moved to a Bill which Government brings before this House, and a Bill cannot be improved by amendments in this House at all.

Mr. HUMAYUN KABIR: Sir, I also agree with my friend Mr. Hamidul Huq Chowdhury that all that we have done in this amendment is merely to change certain dates. Government have already in their bill-clause introduced the provision of giving retrospective effect to this principle. The Hon'ble Minister now tells us that he has given that particular date, because on that date it was published in the *Gazette*. That is entirely irrelevant, because it is within the competence of the Legislature to change that date. It might have been brought forward or it might have been shifted back. Therefore, that argument is hardly worth considering.

'Coming to the question as to whether it is outside the scope of the Bill, yesterday you ruled that the object of this Bill is to ameliorate the condition and give relief to the tillers of the soil. I submit that this amendment will certainly give relief to the tillers——

Mr. PRESIDENT: Order, order. I see you are at least technically correct, and I shall not, therefore, rule it out of order.

Mr. HAMIDUL HUQ CHOWDHURY: I beg to move that in clause 21 of the Bill in sub-section (*2*) (*a*) of the proposed section 75A, for the words "any of the provisions" the word, figure, letter and brackets "section 30(*b*)" be substituted and the words, brackets and figure "(including section 52)" be omitted.

Sir, the section will read as follows:—"All decrees and orders enhancing rent passed under section 30 (*b*) of the Bengal Tenancy Act on or before the date of the commencement of the Bengal Tenancy Act, 1938, are hereby declared to be inoperative from the date of such decree or order until the expiry of the ten years referred to in sub-section (*1*)".

Mine is a compromise between Mr. Kabir's amendment and the proposed Government amendment, clause 21. The compromise is not due to the fact that I do not agree with Mr. Kabir's amendment or the purpose behind it, but in order to make it more acceptable to the members of this House and in order to induce the Government to translate into action their declared object of seeing a reduction of rent of the tenants accomplished within a very short time. This amendment is based upon bare justice. By this amendment I want to bring down the rent of the tenants to the level of rent paid in 1917.

There is a misprint in amendment No. 189 of the List of Amendments. It should be that in clause 21 of the Bill in sub-section (*2*) of the proposed section 75A, for the words and figure "the twenty-seventh day of August, 1937", the words and figure "the first day of April, 1917", be substituted. I do not propose any amendment to sub-section (*1*).

As I have said, I have chosen 1917, for I know, as everyone who cared to observe knows, that the real world-boom started in 1917. From 1917 prices of food-stuffs quickly doubled and remained almost the same for nearly thirteen years, terminating in 1930. Most of the landlords took full advantage of this abnormal rise to raise their collection from the tenant and got enhancement in some cases to the extent of eight annas per rupee. This period was followed by crash, and prices primarily of the agricultural produce fell by almost 75 per cent. A maund of rice was selling at Rs. 9 in 1928 in the district of Noakhali. It fell to Rs. 3 in 1933. Jute was selling in 1925 at Rs. 20 per maund.

Its present price is Rs. 2-8. These prices, it seems, have come to stay. What is the position now? A tenant is now paying three to four times, if not more to his landlord, the amount which he paid in 1928. For example, a tenant whose rent was raised to a sum of Rs. 9 in 1928 could pay it off by giving a maund of rice or half maund of jute. He now discharges the same debt by giving three maunds of rice. Our demand is that rents, as in days of old, shall bear a relationship with the produce of the land. Under section 30 of the Bengal Tenancy Act the tenant is entitled, by going individually to court under the present law, to a reduction. But his circumstances are such that he cannot avail of that opportunity and get whatever under the present law is his due.

By this amendment I seek to make it possible that he should be given what he is rightly entitled to without incurring cost which will come to crores of rupees for the whole of Bengal, without any cost. I believe that the tenantry are the backbone of the country; with their happiness is bound up the happiness of all their superior landlords. True, I belong to a family of landholders, but a person who lives in the village like me has seen the misery of these poor people. I am not a *mahajan* and have not a single pice invested with any cultivator or for the matter of that with any villager. But I do believe that if you do not improve the lot of the peasantry, there is no hope for any class. of distrust in the country and at the same time adversely affect their The short-sighted policy of a few zemindars is bound to create a feeling economic and financial position by reducing the tenantry to slavery. I know the Government and its supporters will find one or other excuse to oppose my amendment. I know that the power in the Cabinet and behind it are predominantly for the interests of the zemindars. I know that all sorts of false smoke will be raised to screen the injustices against society. I know there will be an attempt through the subservient and subsidised Press to justify their actions in the name of religion and mislead the people with regard to our work. I would ask gentlemen on my left who have been giving full support to the Government and specially those who on every occasion speak of conscience, to put their hands on their breast and say whether by supporting my amendment they will not be supporting and furthering the true interests of the tenants and whether by opposing it they will not be playing into the hands of the enemies of the tenantry.

In fact this is an acid test of your sincerity. To-day will be decided finally as to who are the real friends of the raiyats and who are not. Excuses there may be many; prevarications there will be in abundance; objections like that that the matter is outside the scope of the Bill will be forthcoming; but they will deceive none. I can almost predict that the last objection will be the main objection, but we have taken precaution to forestall that commissions and committees may be set up for three purposes, e.g., firstly, to make out a case against the

tenants' cause, secondly, to provide comfortable berths for their supporters and thirdly, to shelve the question as long as possible. But people are now wide awake and you may succeed here to-day, but you will be caught in the mesh of your own creation to-morrow. I will earnestly ask the House as well as the supporters of Government not to forget one thing—not to be deceived by such false cries that if you pass this amendment, the Speaker of the other House will be able to overrule it and thus delay the Bill further. If anybody has raised such a cry, he must have either misled himself or knowingly misled you. Whatever will go to the Lower House, the other House will not be competent to go behind the amendment and rule it out on the ground of relevancy. If that is done, there will be a complete deadlock. Therefore, I earnestly hope that if the tenants' representatives believe that there is a case made out for the purpose of reducing rent, there is no question of delaying the introduction of this provision on the plea of committees or commissions. We can do it under the present law, under section 38. The main basis of enhancement as laid down in section 30 (*b*) is on account of a rise in the price of food-stuffs and, therefore, the rent should be decreased, because, as I have shown during 1930—1938, the prices fell much below what they were before the year 1917. Therefore, there is a good case made out for the purpose of bringing down rents.

Therefore, I suggest that this is a compromise between Mr. Kabir's amendment and the amendment sought by clause 21, and I would, therefore, earnestly appeal to all sections of the House to accept my amendment.

Mr. PRESIDENT: Motion moved that in clause 21 of the Bill in sub-section (*2*) (*a*) of the proposed section 75A, for the words "any of the provisions" the word, figure, letter and brackets "section 30 (*b*)" be substituted and the words, brackets and figure "(including section 52)" be omitted.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: May I know, Sir, which amendment we are now discussing?

Mr. PRESIDENT: We are now discussing the eight amendments that have been moved.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Including amendment No. 183?

Mr. PRESIDENT: Yes; all the eight amendments are now before the House, including No. 183.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Mr. Kabir wanted that to be made clear first.

Mr. PRESIDENT: Well, that would be decided later on. You may make your speech now.

Rai MANMATHA NATH BOSE Bahadur: Sir, I have an amendment, namely, No. 191 of the list of amendments, bearing on this clause and sub-section (*2*). Can I move it now in this connection?

Mr. PRESIDENT: No, you may move it as soon as we have done with these amendments.

Sir Bijoy, do you want to speak now?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir, I would like to speak last—after all the hon'ble members have finished.

Mr. PRESIDENT: Khan Bahadur Saiyed Muazzamuddin Hosain, do you want to speak?

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Yes, Sir.

Mr. President, Sir, our side of the House is in full sympathy with the amendments moved by Mr. Kabir and Mr. Hamidul Huq Chowdhury. But, because it is apprehended that the ruling given by the Hon'ble President, to which we are bound to bow down, may not be accepted by the Hon'ble Speaker when it goes to the Lower House and in consequence the entire Bill may be held up for a pretty long time, we cannot support the amendment moved by him——

Mr. HUMAYUN KABIR: By whom?

Khan Bahadur SAIYED MAUZZAMUDDIN HOSAIN: I mean by Mr. Kabir. On account of that apprehension——

Mr. HUMAYUN KABIR: That the Speaker may give another ruling?

Mr. PRESIDENT: Order, order. It is the duty of the hon'ble members to hear another hon'ble member and not to argue and ask him to repeat his words several times.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I shall deal with the other amendment, namely, amendment No. 183 of the list of amendments. The inclusion of section 52 in the proposed section 75A is being decried as inappropriate, arbitrary and absurd by many

hon'ble members in this House. It is necessary, therefore, to explain the tenants' point of view as to why it is not only fair but also necessary in the interest of the raiyat. The raiyats have been harassed by enhancement after enhancement of their rents in contravention of the solemn pledge given by the Court of Directors that their amounts of rent would be as certain and fixed as those of the landlords. The raiyats have been demanding the abolition of all the provisions regarding the enhancement of rent in the Bengal Tenancy Act. The tenants have now become exasperated as they were not spared even during the years of depression, and their rents were merrily enhanced on the basis of artificial calculation of the price of crop, entirely ignoring the terrible economic crisis through which the raiyats were then passing and in utter disregard of the salutary provisions of section 35 of the Bengal Tenancy Act. The raiyats further demand reduction of all the enhancements made on the ground of a rise in prices, as apart from the fact that enhancement on ground of rise in prices is inequitable and unjust, the enhancement allowed during the last twenty years could not be justified now owing to the fall in prices. Under section 38 the tenants can get the enhancement reduced by instituting civil suits, but they are poor and penniless and cannot seek redress in the civil courts. They could, therefore, justly expect of the Legislature to come to their rescue. Their demands which were apparently just have only been met in a niggardly way by the proposed provision about suspension of all sorts of increase in their *jama* for a period of ten years, pending consideration of the larger question as to the landlords' right to enhance rents. Sir, the inclusion of section 52 in the proposed section has been very much adversely criticised, but it is really meant to protect the raiyat from harassment of all kinds incidental to enhancement proceedings. It is meant to leave him undisturbed and to give him complete respite for a period of ten years only for recovering his economic position, after the period of depression. If section 52 were permanently abolished, the objection of the Opposition Party would be fully justified, but it will be only a temporary measure for tiding over an abnormal crisis and no one, who has any concern for the agricultural community, should grudge it. Actual trespass into *khas* land may be prevented by the vigilance of the landlords' staff and so the suspension of the operation of the section is not likely to affect the landlord to an appreciable extent. As to accretions, Government has taken precaution to keep a *halat* as *khas* by the riverside of all *mahals* in the riparian area and so the Government will be able to treat all accretions as *khas* lands and shall be able to assess them by settling with tenants; so Government will not at all be affected by the inclusion of section 52, as they will be able to treat all accretions as *khas* lands. The net effect of inclusion of section 52 will, therefore, be that raiyats will be saved from the harassment of

measurement and fresh revisional proceedings, on the plea of assessment or of any supposed increase in area. It is only a modest concession in favour of the raiyats which is not likely to affect the landlords to an appreciable extent if their agents are sufficiently vigilant. It is only a temporary concession for economic recovery and it cannot be reasonably withheld. With these remarks, Sir, I appeal to the Opposition to withdraw the amendments.

Mr. NUR AHAMED: Mr. President, Sir, I had no intention to take part in the debate over these amendments, but the speeches of the movers and supporters of some of the amendments have forced me to say a few words. It is really surprising to me to find that the hon'ble members who always profess to be *prajabandhus*, the real friends of the peasants, and who feel that they are the only people on this earth who are concerned with the welfare of the tenantry, have come forward to move and support these amendments to lessen the period and extent of relief to the poor cultivators! I do not know, Sir, what has moved them to take up this attitude. Personally, I do not represent the Praja community, and I have no landed property beyond the boundary of the urban area. So I cannot be charged with being biassed towards them. After all, who are the Prajas? They are the real backbone of the community. Besides, it appears from the Census Report that the number of the agriculturists is on the increase, and I mean by agriculturists those who are the tillers of the soil, and in Bengal 86 per cent. of the population are agriculturists. When this Bill was published in the *Calcutta Gazette* in August, 1937, I can say from my experience as a practising lawyer in the *mufassil* that many cases were filed by zemindars in *mufassil* courts for enhancement of rent under section 52, because there was an apprehension that by the proposed amendment of the Bengal Tenancy Act this sort of proceedings would be put a stop to. So, I think the members of the Assembly have had cogent reasons for fixing August, 1937, on which the Bill was introduced there. So there is no reason why this Bill should be altered and there is no reason why section 52 should be excluded——

Mr. PRESIDENT: Order, order. The Leader of the Opposition should know that he ought not to cross the floor of the House between the Chair and the speaker. Does he want to join the Coalition Party by walking over to that side?

Dr. RADHA KUMUD MOOKERJI: I am sorry, Sir, I could not have an accurate angle of vision.

Mr. NUR AHAMED: There is no reason why the provision made therein should be excluded from the scope of the Bill. It has been

stated by Mr. Humayun Kabir that the land revenue was fixed for all time, and at the time of the Permanent Settlement it was fixed that one-tenth of the rent realised from the tenant should go to the zemindar. It was calculated at that time that the zemindars would pay 2½ crores to the Government and keep for themselves as their remuneration and expenses Rs. 40 lakhs or so. But it is a well-known fact that the zemindars are now getting Rs. 20 crores or more as rent and are enjoying an income of Rs. 16½ crores in place of Rs. 40 or 45 lakhs which they used to get at the time of the Permanent Settlement. Then, Sir, to quote one instance, the zemindars have been bringing under cultivation lands which were lying fallow or uncultivated. And while they are making an income out of them, they are not paying anything as revenue therefor. It was not the object of the Permanent Settlement that the zemindars should enjoy rights and privileges without making a similar concession to the raiyats. I think, therefore, that no injustice would be done by suspending provisions relating to enhancement of rents for a period of ten years.

On these grounds, Sir, I support clause 21 of the Bill and oppose the amendments.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Mr. President, Sir, ——

Mr. PRESIDENT: I must again remind the Leader of the Opposition that it is the ordinary convention that the line between the speaker and the Chair should not be crossed.

Dr. RADHA KUMUD MOOKERJI: I am very sorry, Sir.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Mr. President, Sir, there are two sets of amendments before the House, one is for exclusion of section 52 from the bill-clause, and the second is for giving retrospective effect to this bill-clause for thirty years, and another, I think, for seventeen or eighteen years. These are the two sets of proposals. I would, first of all, speak on section 52. Sir, as I had occasion to observe, personally I renounce all responsibility for this clause as it stands. Section 52, in my opinion, should never have been inserted here. It is out of place altogether——

Mr. LALIT CHANDRA DAS: On a point or order, Sir. After what the Hon'ble Minister has said, it seems I should say just now what was passing in my mind. My point of order is this, "including section 52 cannot find a place in section 75A". This is the point of order. We must not allow ourselves to yield to tyranny of votes in this matter. If we find that section 75A deals with suspension of

the provision relating to enhancement of rent, then I submit, that as section 52 relates to alteration of rents for alteration of area and as there was no rent at all for that land, there cannot be any question of enhancement of rent and there cannot be any question of suspension of provisions relating to enhancement of rent. My submission is, "including section 52 in the provisions for suspension of provisions relating to enhancement of rent" is illegal. Therefore, it is out of order here.

Mr. PRESIDENT: I quite appreciate your point, it is really a very interesting point. But how do you raise it here? There is the clause in the Select Committee's report. Do you object to this amendment?

Mr. LALIT CHANDRA DAS: My point of order is this: that "including section 52 cannot find a place in a provision which relates to the suspension of the provisions relating to enhancement of rent".

Mr. PRESIDENT: You shall have to make out that some of the amendments are not in order. To what amendments are you taking exception?

Mr. LALIT CHANDRA DAS: As the Hon'ble Minister rose to speak against our amendment, where we said that section 52 is to be omitted, I rise on a point of order that he cannot speak against this amendment.

Mr. PRESIDENT: You say that is irrelevant?

Mr. LALIT CHANDRA DAS: Yes, Sir. He cannot try to speak against our amendment where we say that "including section 52" should be omitted from section 75A which deals with suspension of provision relating to enhancement of rent.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I know what is the point of order, and what is your ruling?

Mr. PRESIDENT: I ask you not to go on with this which, I think, is irrelevant.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: All right, Sir.

Section 52, in my opinion, should not have been included at least in this clause. That is my personal view. But the Assembly did accept a private member's amendment, and it was included in it and it stands there. Now, the Select Committee ,too, Sir, did not consider it necessary to bring about any change. So it finds its place in that clause.

Now coming to the proposal of Mr. Humayun Kabir and Mr. Hamidul Huq Chowdhury, first of all, I am afraid my friend Mr. Hamidul Huq Chowdhury runs away with the idea that sympathy for the tenants is his monopoly. I think there are many hon'ble members in this House who are equally solicitous for giving relief to the tenantry of Bengal.

Mr. HUMAYUN KABIR: Prove it.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: But it has to be done in a practicable, reasonable and fair way. We cannot take to short-cuts, and Mr. Humayun Kabir's amendment and the amendment of Mr. Hamidul Huq Chowdhury are short-cuts. Because, if they wanted any reduction of rent, there should have been amendment to section 38, but not any amendment to clause 21 of the Bill, the real object of which section is to give retrospective effect to this Bill by a few days, that is, from the date of the publication of the Bill in the *Calcutta Gazette*, and nothing else, not to secure any reduction of rent.

As regards the merits of the proposal, first of all rent is always fixed and it is considered to be the fair rent unless it is proved otherwise. So, by an *ad hoc* reduction you can fix an unfair rent. The reduction may be justified in some cases, whereas it may not be at all justified in other cases.

Mr. HUMAYUN KABIR: Price level?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: If the rents of all the holdings in Bengal are brought down on the price level to 1907 basis, then probably in some cases the original rent being too low, it would be unfair whereas in other cases it may be fair to some extent. That is a point which should not be lost sight of. Secondly, the price level in 1907—taking 100 as the price in 1904—the price level in 1907 was 197. In 1914 it was 192, in 1917 it was 158; it went down slightly. In 1936 it is again 135. There is a rising tendency again that must not be lost sight of. So, the reduction on the ground of price level may not secure fair rent in every case.

Thirdly, Sir, enhancement of rent in every case was not secured merely on price level. In some cases the enhancement probably was secured on the ground that the rent was lower than the rent of lands in the locality. In some cases rents were enhanced on the ground of classification. The classification of land in the course of the last thirty years might have undergone a great change. So, an *ad hoc* reduction will not secure fairness. It may do great injustice with regard to some landlords, whereas with regard to some tenants, it may

do justice. Sir, as regards reduction of rent, Government have already decided to appoint a Committee. Where, in their opinion, the rent has reached an uneconomic limit, and where it is exorbitant, the Committee will suggest some ways and means for reducing it.

Then there is a section, namely, section 112, in the Bengal Tenancy Act, and Government can and are prepared to make use of the provisions of section 112. In fact, they have already taken steps to bring about reduction of rent in two *parganas* of Mymensingh district under section 112, where they considered that the price level has been fixed very high, and on an arbitrary basis.

Mr. SACHINDRA NARAYAN SANYAL: What about Burdwan Division? Is it very high?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is a very ill-informed suggestion. It may be high or it may be low there.

Mr. SACHINDRA NARAYAN SANYAL: I am only asking you. I am not putting any suggestion.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The rent varies from village to village, from field to field; so without proper enquiry, without proper classification, without thorough examination into the incidence of tenancy and price level of the produce, you cannot say whether the rent level is high or low.

Rai KESHAB CHANDRA BANERJEE Bahadur: Also production.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, it depends on productivity. Classification means productivity.

I venture to think that these proposals of Mr. Humayun Kabir and of Mr. Hamidul Huq Chowdhury are very unsound and unfair. It may or may not give relief to cases where relief is urgently necessary, and it may do great injustice in cases where the rents are probably already very low. These are the facts which the House should bear in mind before coming to a decision and before giving their verdict on these amendments. The amendments may sound very well; they may give my friends some publicity, as "friends of the tenants".

Mr. MUMAYUN KABIR: That term is reserved for the Ministers'.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: But the proposal will not secure the object of really helping the tenants. I am sure that object will not be attained by this sort of *ad hoc* reduction of rent, and by this sort of short-cut method.

Mr. HAMIDUL HUQ CHOWDHURY: If the Hon'ble Minister would have properly made out a case, I would be ready to withdraw my amendments.

Mr. PRESIDENT: There is no question of withdrawal in this.

I desire first to put to vote the motions of Mr. Hamidul Huq Chowdhury.

Mr. HUMAYUN KABIR: Sir, mine is more extreme, and so it may be taken first.

Mr. PRESIDENT: It is for the Chair to decide that.

The question before the House is that in clause 21 of the Bill in sub-section (2) (*a*) of the proposed section 75A, for the words "any of the provisions" the word, figure, letter and brackets "section 30 (*b*)" be substituted and the words, brackets and figure "(including section 52)" be omitted.

Mr. HUMAYUN KABIR: Division, Sir!

Mr. PRESIDENT: It is no good calling for a division when those who are in favour of these are only two or three. So those who are in favour of these amendments will please stand in their places.

(Only three members stood up.)

Mr. HAMIDUL HUQ CHOWDHURY: Sir, this result will have to be recorded.

Mr. PRESIDENT: Yes. Those who are against the motion will now please rise in their places.

(Twenty-eight members stood up.)

So the Noes have it, the Noes have it.

The motion was lost.

Mr. PRESIDENT: Is it necessary to put the other motions of Mr. Humayun Kabir? If he so desires, I shall do so.

Mr. HUMAYUN KABIR: Yes, Sir. I wish that they should be put to vote.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: It is time for prayer. We cannot wait any more.

Mr. PRESIDENT: It is not yet 12 o'clock.

The questions before the House are—

that in clause 21 of the Bill, in sub-section (*2*) (*a*) of the proposed section 75A, for the words and figure "the twenty-seventh day of August, 1937," the words and figures "14th April, 1907", be substituted;

that in clause 21 of the Bill, in sub-section (*2*) (*a*) of the proposed section 75A, the words "and before the date of commencement of the Bengal Tenancy (Amendment) Act, 1938", be omitted;

that in clause 21 of the Bill, in sub-section (*2*) (*a*) of the proposed section 75A for the words "the date of such decree or order," the words and figures "the 14th April, 1938", be substituted.

Those who are in support of the motions will please rise in their places.

(Only three members stood up.)

Those who are opposed to the motion will please rise in their places.

(Twenty-six members stood up.)

The Noes have it, the Noes have it.

The motion was lost.

Mr. PRESIDENT: I shall put the main motion after adjournment.

I adjourn the House till 2 p.m. for prayer.

Adjournment.

The House adjourned till 2 p.m. for prayer.

After adjournment.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Mr. President, Sir, before the amendments are put to vote, may I with your permission move a short-notice amendment by way of a drafting change in the proposed section 75A to remove the anomaly which has been pointed out by Mr. Lalit Chandra Das in his speech?

Mr. PRESIDENT: Let me put the motions first, and afterwards if there is no objection, you can move your amendment.

The question before the House is that in clause 21 of the Bill in sub-sections (*1*) and (*2*) (*a*) of proposed section 75A, the words, figure and brackets "(including section 52)" be omitted.

The motion was lost.

Mr. PRESIDENT: The question before the House is that in clause 21 of the Bill, in the proposed section 75A, for the word "including", wherever it occurs, the word "excluding" be substituted.

The motion was lost.

Mr. PRESIDENT: Yes, Khan Bahadur Muazzamuddin Hosain, will you now read out your short-notice amendment?

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, my short-notice amendment runs as follows: That in clause 21, in the proposed section 75A (*1*) after the word "rent" in the second line of the sub-section, the words "and additional rent for additional area" be added and similarly that in the same clause, in the first line of the proposed sub-section 75A (*2*) (*a*) after the word "rent", the words "or allowing additional rent for additional area" shall be added.

I submit, Sir, that this amendment is very necessary, otherwise people will think that an august House like this has passed an anomalous provision.

Mr. PRESIDENT: Motion moved that in clause 21, in the proposed section 75A (*1*) after the word "rent" in the second line of the sub-section, the words "and additional rent for additional area" be added and similarly that in the same clause, in the first line of the proposed sub-section 75A (*2*) (*a*) after the word "rent", the words "or allowing additional rent for additional area" shall be added.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, if this short-notice amendment is accepted, it will altogether change the meaning.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: No, Sir, it will not.

Mr. LALIT CHANDRA DAS: Yes, it will.

Mr. PRESIDENT: As there is opposition both from Government and from the Opposition to the moving of this amendment, I cannot allow it to be moved.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I explain the difficulty, Sir?

Mr. PRESIDENT: No, it is not necessary.

Rai Sahib INDU BHUSAN SARKER: Sir, I beg to move that in clause 21 in the proposed section 75A in sub-section (*1*) for the words beginning with "for a period of ten years" to the end of the sub-section the words "for a period of three years" be substituted.

Sir, I should like to give the grounds for moving the amendment.

Suspension for ten years has no meaning: it may be suspended for three years, so that the question may be settled after the proposed Land Commission has reported.

The power of enhancement arises from the inherent right of proprietorship. It is true that nowadays enhancement clauses are rarely resorted to. Whether the power of enhancement should belong to landlords or not, that question cannot be settled without investigating other subsidiary issues connected with the land system.

In land economics it is accepted that the right of enhancement gives power to landlords to sink in money for improvement of estates. Moreover, the right of enhancement by itself is never unsound.

The existing provisions are so rigid that it is difficult to make enhancements on those clauses. Even then, those clauses are important, and the consideration of these questions can suitably be gone through by the Land Commission. The Commission, if appointed, will submit its report within a year or two. For this intervening period, enhancement clauses may be suspended. But in suspending it for ten years, we do not, in fact, stand for any principle. If you like to delete the clauses, that is one thing. But if you like to suspend it, you must have some policy at its back.

With these few words, Sir, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Motion moved that in clause 21 in the proposed section 75A in sub-section (*1*), for the words beginning with "for a period of ten years" to the end of the sub-section, the words "for a period of three years" be substituted.

Rai MANMATHA NATH BOSE Bahadur: Mr. President, Sir, the next amendment which stands in my name is practically the same as No. 185 of the list of amendments.

Mr. PRESIDENT: Yes; so you can speak on amendment No. 185.

Rai MANMATHA NATH BOSE Bahadur: Then, Sir, I shall not move my own amendment, but shall speak in support of amendment, moved.

The proposal is to suspend all provisions of the Act relating to enhancement of rent for a period of ten years with effect from the

27th day of August, 1937. I would ask the House through you, Sir, to consider what the effect of this legislation will be. Can any one prevent a tenant from taking advantage of this, and if he pleads that he is entitled to a presumption under section 50 for having paid rent at a uniform rate for more than twenty years and has acquired *mokarari* right, will that not be taking undue advantage over a landlord? The Legislature, or for the matter of that, the Government have never instituted enquiries as to whether any enhancement of rent should be granted under the present circumstances. Enhancement is generally made by a suit instituted in the civil court and the civil court has to enquire into the facts of each case before coming to a decision. The court is, therefore, more competent to say whether any enhancement should be granted. This is far better than a general decision,—and that without enquiry,—that no enhancement should be granted for a number of years. If, however, it be the opinion of the House that enhancement should be suspended for a pediod, I am of opinion that a period of three years may be fixed for the present and, if necessary, this period may be extended afterwards.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. My short reply, as regards the presumption under section 50, is that there is a record-of-rights prepared for practically all the districts in this province, and so that question does not arise.

Mr. PRESIDENT: The question before the House is that in clause 21 in the proposed section 75A in sub-section (*1*), for the words beginning with "for a period of ten years" to the end of the sub-section the words "for a period of three years" be substituted.

The motion was lost.

Rai MANMATHA NATH BOSE Bahadur: I beg to move that in clause 21, in sub-section (*2*)(*a*) of the proposed section 75A, for the words and figure "on or after the twenty-seventh day of August, 1937", the words "on and from the date on which the amendment Bill is passed by the Bengal Legislative Council" be substituted.

My submission is this that the provision declaring decrees and orders enhancing rent passed under any of the provisions of this Act on or after the 27th August, 1937, and before the date of the commencement of the Bengal Tenancy (Amendment) Act to be inoperative, is highly unjust and inequitable. They have been passed after enquiry as to whether there should be enhancement in that particular case, and it may be that in some cases they have been affirmed on appeal. Why then should the Legislature deprive the landlord of a

valuable right? The Government have not enquired and are not competent to enquire as to whether the decree or order was unjustly passed by the civil court. Under the circumstances, it is difficult to understand how the Legislature can declare the decrees and orders passed during the period mentioned in the sub-section to be inoperative.

I may mention here also that by this sub-clause restrospective operation is being given and a landlord is being deprived of valuable rights declared or recognised by court without adequate compensation. Even contract which should be sacrosanct has not been spared in sub-section (2)(*b*). I, therefore, propose that the amendment be accepted.

Mr. PRESIDENT: Motion moved that in clause 21, in sub-section (2)(*a*) of the proposed section 75A, for the words and figure "on or after the twenty-seventh day of August, 1937", the words "on and from the date on which the amending Bill is passed by the Bengal Legislative Council" be substituted.

The Hon'ble Sir BIJOY PRASAD SINGH RIY: Sir, I oppose this amendment.

Mr. PRESIDENT: The question before the House is that in clause 21 in sub-section (2)(*a*) of the proposed section 75A, for the words and figure "on or after the twenty-seventh day of August, 1937", the words "on and from the date on which the amendment is passed by the Bengal Legislative Council" be substituted.

The motion was lost.

Rai MANMATHA NATH BOSE Bahadur: Sir, I beg to move that in clause 21 of the Bill, after sub-section (2) of proposed section 75A, the following sub-section be added at the end, namely:—

"(3) Notwithstanding anything contained in the Indian Limitation Act or in any other Act the landlord shall be competent to execute the decrees or orders mentioned in sub-clause (2)(*a*) and (*b*) of clause 21 after the expiry of the said period of ten years where possible."

Mr. PRESIDENT: Motion moved that in clause 21 of the Bill, after sub-section (2) of proposed section 75A, the following sub-section be added at the end, namely:—

"(3) Notwithstanding anything contained in the Indian Limitation Act or in any other Act the landlord shall be competent to execute the decrees or orders mentioned in sub-clause (2)(*a*) and (*b*) of clause 21 after the expiry of the said period of ten years where possible."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, may I just request you not to put the motion to vote now, because the draft requires a little examination and Government are prepared to accept it.

[Voting on this motion was postponed.]

Clause 22.

Mr. KAMINI KUMAR DUTTA: I beg to move that in clause 22 of the Bill in sub-section (*1*) of proposed section 85A, after the words "a tenure-holder," the words "including a person holding a *patni*-tenure" be inserted.

Now, the object of this clause 22 is to give the right of surrender to the tenure-holders. "A tenure-holder may apply to the court for permission to surrender a tenure," of course under certain restrictions and after following a certain procedure as laid down in that clause. But the question may arise whether this right of surrender will also contribute to the benefit of those who hold a tenure under *patni* right. To remove that doubt, I have moved this amendment, so that the *patni*-holders also may have this very elementary right of surrender. Of course, previously none of the tenure-holders could surrender their tenures. The raiyats could, but the tenure-holders could not. As the right has been given to the tenure-holders, the object of my amendment is that this right should also be extended to the *patni*-tenure-holders.

Mr. PRESIDENT: Motion moved that in clause 22 of the Bill in sub-section (*1*) of proposed section 85A, after the words "a tenure-holder," the words "including a person holding a *patni*-tenure" be inserted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment, because it is not necessary in the case of a *patnidar* to surrender; if he finds the *patni* unprofitable, he can default and the *patni* will be sold. So the necessity of surrender, as in the case of a permanent tenure-holder, does not arise in the case of a *patnidar*. A *patni* is governed by special regulation.

Mr. PRESIDENT: The question before the House is that in clause 22 of the Bill in sub-section (*1*) of proposed section 85A, after the words "a tenure-holder", the words "including a person holding a *patni*-tenure" be inserted.

The motion was lost.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that in clause 22 of the Bill, after sub-section (*3*) of proposed section 85A, the following sub-section be inserted, namely:—

> "(*3a*) The application under this section shall be made in the court having jurisdiction to determine a suit for the possession of the land of the tenure concerned."

Sir, the object of this amendment is only to make this amending clause operative, In the clause itself it is said that an application under sub-section (*1*) shall be in the prescribed form, shall give particulars, *inter alia*, of under-tenure-holders, and raiyats, if any, holding directly under the tenure sought to be surrendered, and of any incumbrances upon the said tenure, and shall be accompanied by the process-fee prescribed for service of notices upon the landlord or his common agent, under-tenure-holders, raiyats, and incumbrancers, if any. Sub-section (*3*) says "if the court, after hearing the parties, grants permission for the surrender of the tenure, it shall impose such equitable conditions as it may think proper."

Apparently this section contemplates that an application has to be made to a court, but it does not lay down to which court the application is to be made,—the court having jurisdiction as to the value of the land or as to the value of the rent or what—before a Sub-Judge, or a District Judge, or a Munsif? Really the effect of not defining the court before which the application is to be made would be to make this section inoperative. People will not know in what court they have to file their applications, in the court having jurisdiction over the annual valuation of the holding or over the annual rent of the holding. That is why I move this amendment; otherwise, anomalies would arise as nobody would know where the case should be instituted.

Mr. PRESIDENT: Motion moved that in clause 22 of the Bill, after sub-section (*3*) of proposed section 85A, the following sub-section be inserted, namely:—

> "(*3a*) The application under this section shall be made in the court having jurisdiction to determine a suit for the possession of the land of the tenure concerned."

Khan Bahadur M. SHAMSUZZOHA: Sir, with regard to this point, I may invite your attention to section 144(*3*) of the Act. When under this Act a civil court is authorised to make an order on the application of a landlord or a tenant, the application shall be made to the court which would have jurisdiction to entertain a suit for the possession of the tenure or holding in connection with which the application is filed. So, I do not think it is necessary.

Mr. PRESIDENT: The question before the House is that in clause 22 of the Bill, after sub-section (*3*) of proposed section 85A, the following sub-section be inserted, namely:—

"(*3a*) The application under this section shall be made in the court having jurisdiction to determine a suit for the possession of the land of the tenure concerned."

The motion was lost.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that in clause 22 of the Bill, for sub-section (*4*) of proposed section 85A, the following be substituted, namely:—

"(*4*) An appeal shall lie to the ordinary civil appellate court from any order of a court under this section, provided that it is presented within thirty days from the date of such order and is accompanied by the prescribed fee".

The only object in making this provision is that the clause, as it stands, does not provide the period of limitation or any sort of fee or whether it should be accompanied with a copy of the order or not; so in order to define the period of limitation within which this appeal is to be filed, I move this amendment.

Mr. PRESIDENT: Motion moved that in clause 22 of the Bill, for sub-section (*4*) of proposed section 85A, the following be substituted, namely:—

"(*4*) An appeal shall lie to the ordinary civil appellate court from any order of a court under this section, provided that it is presented within thirty days from the date of such order and is accompanied by the prescribed fee".

Mr. NAZIRUDDIN AHMAD: Sir, with regard to this amendment, I beg to submit that this appeal would be treated as an appeal against an order. Under the Civil Procedure Code the limitation is thirty days and the prescribed court-fee is that of a petition which is already provided for in the Limitation Act. In the circumstances, this amendment is not quite necessary.

Mr. PRESIDENT: The question before the House is that in clause 22 of the Bill, for sub-section (*4*) of proposed section 85A, the following be substituted, namely:—

"(*4*) An appeal shall lie to the ordinary civil appellate court from any order of a court under this section, provided that it is presented within thirty days from the date of such order and is accompanied by the prescribed fee."

The motion was lost.

Mr. PRESIDENT: The question before the House is that clause 22 stand part of the Bill.

The motion was agreed to.

Clause 23.

Mr. PRESIDENT: The question before the House is that clause 23 stand part of the Bill.

The motion was agreed to.

Clause 24.

Rai MANMATHA NATH BOSE Bahadur: Sir, I beg to move that in clause 24, in proposed section 86A in sub-section (*1*), after the words "are lost by diluvion", the words "or gained by accretion", after the words "shall be abated" the words "or increased", and after the words "as the area lost" the words "or gained", be inserted.

My submission is this: the proposed section does not provide what will happen in the case of new accretions. It would be very difficult to determine when the diluvion actually takes place. The clause, as it stands, does not cover cases of land gained by alluvion. It may be that this omission was deliberate but it is necessary for the sake of fairness and justice that it should be dealt with in this section. It is but proper that the tenant, who would enjoy the land, would pay proper rent for it.

Mr. PRESIDENT: Motion moved that in clause 24, in proposed section 86A in sub-section (*1*), after the words "are lost by diluvion", the words "or gained by accretion", after the words "shall be abated" the words "or increased", and after the words "as the area lost" the words "or gained", be inserted.

Khan Bahadur M. SHAMSUZZOHA: Sir, I do not think these words are necessary in view of the fact that the sub-section of the Bill proposes that nothing in this shall prevent any right by virtue of accretion. So, the amendment is not necessary.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, this amendment is, I think, outside the scope of the Bill. The bill-clause deals only with diluvion and not with accretion. There is a special law for accretion. I refer to Act XI of 1825; section 4 of that Act deals with accretion. So, I think that this is outside the scope of the Bill.

Mr. PRESIDENT: The question before the House is that in clause 24, in proposed section 86A in sub-section (*1*), after the words "are lost by diluvion" the words "or gained by accretion", after the words "shall be abated" the words "or increased", and after the words "as the area lost" the words "or gained", be inserted.

The motion was lost.

Mr. PRESIDENT: The question before the House is that clause 24 stand part of the Bill.

The motion was agreed to.

Clause 25.

Mr. HUMAYUN KABIR: I beg to move that in clause 25 of the Bill to sub-section (*1*) of the proposed section 88, the following proviso be added at the end, namely:—

"Provided further that if in any proceeding under the following sub-section, it is proved that in any civil court that the landlord refused to grant division or distribution of rent without any reasonable ground he will be liable to pay the entire cost of the proceedings to the tenant together with damages which may extend to Rs. 250 only."

Sir, this is only a saving clause. We expect that normally there will be no necessity for this clause coming into operation. Normally, we expect that there will be no opposition against the commutation of names, without valid grounds, and this clause only provides that if in any case there be such opposition on the part of the landlord without reasonable ground when he refuses to grant division and distribution, then in that case only will he be liable to pay the cost of the proceedings and also damages which may extend to Rs. 250. It may be even less than that. The purpose of the clause is only to prevent the landlord from unnecessary interference.

Mr. PRESIDENT: Motion moved that in clause 25 of the Bill to sub-section (*1*) of the proposed section 88, the following proviso be added at the end, namely:—

"Provided further that if in any proceeding under the following sub-section, it is proved that in any civil court that the landlord refused to grant division or distribution of rent without any reasonable ground he will be liable to pay the entire cost of the proceedings to the tenant together with damages which may extend to Rs. 250 only."

Mr. NAZIRUDDIN AHMAD: Sir, I beg to oppose this motion. We are trying to bring about a harmonious relation between the tenants and the landlords (Hear! Hear!), but my friend Mr. Kabir is standing between the landlords and the tenants. I think that he of all persons should try to bring the warring elements together and would be good enough to withdraw the motion that he has moved.

Mr. PRESIDENT: The question before the House is that in clause 25 of the Bill to sub-section (*1*) of the proposed section 88, the following proviso be added at the end, namely:—

> "Provided further that if in any proceeding under the following sub-section, it is proved that in any civil court that the landlord refused to grant division or distribution of rent without any reasonable ground he will be liable to pay the entire cost of the proceedings to the tenant together with damages which may extend to Rs. 250 only."

The motion was lost.

Mr. HUMAYUN KABIR: Sir, I beg to move that in clause 25 of the Bill, in proviso (*b*) to sub-section (*2*) of proposed section 88, after the words "division or distribution", the words "except in case of auction in court or by sale" be inserted.

The result of this amendment will be that this will save the tenants from the loss of their entire holding in certain cases. Sub-section (*2*) of proposed section 88 reads as follows:—

The civil court, on application made to it by one or more co-sharer tenants for a division of a tenure or holding or for a distribution of the rent payable in respect thereof, or for the annulment or modification of a previous division or distribution other than one made under this sub-section or under an agreement made between all the landlords and co-sharer tenants in conformance with the provisions of sub-section (*1*), may, by order in writing, direct such division of the tenure or holding or such distribution of rent as the court considers fair and equitable, or annul or modify a division or distribution previously made other than one of the nature referred to above if the court considers it unfair and inequitable:

In the proviso (*b*) it is said "no order for division or distribution shall be made which would result in bringing the rent for any portion below two rupees in the case of tenures or one rupee in the case of holdings".

The result of the proposed section will be that if in any case the rent is reduced to two rupees, then the entire holding will be sold.

Thus the tenants will be deprived of the entire holding. My amendment wants to save the tenant in those cases where his holding is put to sale at a court auction. If this amendment is accepted, it will have operation only in those cases where there is a court sale, and in that case the entire holding of the tenant shall not be put to sale. If the bill-clause as proposed be accepted, the result would be that in certain cases the entire holding will be sold in order to pay only a certain portion of the rent and that portion of the rent could be realised by selling only a part of the holding.

I would remind Government of the procedure and general attitude which has been adopted in Orissa. In Orissa, in the case of arrears of rent, Government has provided that where a portion of the holding is adequate for the realisation of the arrears, the remaining portion shall not be sold. If this amendment is accepted, a similar provision will come into force here also. This does not interfere with the Bill in any way. It seeks to improve only a very minor matter and I am afraid it is a matter which has been overlooked by Government, because Government certainly cannot want that in default of rent for a few months only, the entire holding of a tenant should be put to auction. I would, therefore, commend my motion to the acceptance of the Hon'ble Minister and, if illogically he refuses to accept it, to the acceptance of the House.

Mr. PRESIDENT: Motion moved that in clause 25 of the Bill, in proviso (*b*) to sub-section (*2*) of proposed section 88, after the words "division or distribution", the words "except in case of auction in court or by sale" be inserted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I oppose this amendment, because it will further reduce the size of holdings which is very undesirable. None of us want to make holdings more uneconomic. There is the fundamental principle that the holding is responsible for the landlord's rent; the subdivision of holding is a new principle which is sought to be introduced here, and I am not prepared to follow Mr. Kabir to Orissa with a view to introducing this change in Bengal. If it has been introduced in Orissa, I think, we should wait and see what the effect of that amendment is going to be there. I am very reluctant to accept precedents from neighbouring provinces without having seen what their effect is going to be.

Mr. PRESIDENT: The question before the House is that in clause 25 of the Bill, in proviso (*b*) to sub-section (*2*) of proposed section 88, after the words "division or distribution", the words "except in case of auction in court or by sale" be inserted.

The motion was lost.

Rai MANMATHA NATH BOSE Bahadur: Sir, I beg to move that in clause 25 in proposed section 88 in proviso (*b*) to sub-section (*2*) in line 3, for the word "two" the word "four"; and in line 4 for the word "one" the words "two and a half" be substituted.

I also beg to move that in clause 25 in proposed section 88(*4*), in line 4, for the words "one rupee" the words "two rupees" be substituted.

The proposed section gives ample facilities for sub-division of holdings and tenures and distribution of rents. It is now provided that the minimum rent which a tenure must have to pay is two rupees and the minimum rent for a holding is one rupee. This is less than what was laid down in 1928. The question is whether such sub-division or distribution would be beneficial to the tenants at all. It should be remembered that small holdings cannot be cultivated properly. In actual working of the existing section, I have found amicable division of a holding very difficult and it would be more so when the proposed section takes effect. It is known that for the economy of production, a farm should be as large as practicable so as to give room for the highly specialised machine and for the exercise of great ability on the part of the farmer. Cultivation of small holdings involves proportionately greater time and expenditure than larger ones.

In Bengal even a small family cannot be maintained out of the usufruct of less than an acre; so it is desirable that the minimum area of a holding should not be less than an acre. In the case of a tenure the area must be much greater, as a tenure-holder has to collect rents from the tenants. The Bill nowhere lays down the minimum area of a holding or a tenure. It simply lays down the minimum rent. But that is an indication of what the minimum holding or tenure should be. In cases of small tenures the tenure-holders have to waste a great deal of their time and energy in collecting small sums from tenants; they might have usefully spent that time and energy in other productive occupations. In cases of small holdings the raiyat's time and plough are not sufficiently occupied; neither would be the landlord's when they would be made *khas*. As the raiyat is not fit to do other works and has no training for the same, much time and energy would be lost and the economic condition of the raiyat will not improve. On account of such minute division, the landlord's rent-roll is bound to be extremely large and often unmanageable. He will have to undergo permanent extra expenses for collecting his dues from a large number of tenants in place of a limited number and all for a rupee only, provided in the Bill. In sub-section (*3*), it is provided that when a co-sharer tenant becomes a co-applicant, no further notice be given to the landlord. This is not fair. The landlord may not have any objection to sub-division by one co-sharer tenant but may have

objection with regard to another who joins as a co-applicant. The latter's statement regarding the *jama*, share, etc., may be wrong. It should also be laid down that copies of applications made by the applicant should be served on the landlord. There is no provision in the Bill as to what should happen regarding arrears of rent remaining due at the time of sub-division. This is important and should have been provided for. If arrears of rent remain unpaid, whom will the landlord sue and for what amount, i.e., whether it should be for the whole amount remaining due or for the distributed amount against the tenants whose rent has been distributed? If it is for the former, will the entire holding or the tenure remain liable, or the divided tenure or holding? In the former case the sale of the entire tenure or holding nullifies the sub-division. These are the defects which I wish to bring to the notice of the Hon'ble Revenue Minister, and I hope he will see his way to modify the suggested section.

Mr. PRESIDENT: Motions moved that in clause 25 in proposed section 88 in proviso (*b*) to sub-section (*2*) in line 3, for the word "two" the word "four"; and in line 4 for the word "one" the words "two and a half" be substituted; and

that in clause 25 in proposed section 88(*4*) in line 4, for the words "one rupee" the words "two rupees" be substituted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I oppose these amendments.

Mr. NAZIRUDDIN AHMAD: Sir, I oppose the amendments on the ground that most of the holdings are very small. Besides the danger of splitting the holdings into smaller ones, there is a greater danger that several co-sharers, having nothing in common except enmity, would allow arrears to accumulate and force landlords to go to courts. If these are sub-divided, there is a way of uniting them again, namely, the landlord may amicably allow consolidation of smaller holdings into bigger ones and thereby try to counteract the effect of sub-division of holdings.

Mr. PRESIDENT: The question before the House is that in clause 25 in proposed section 88 in proviso (*b*) to sub-section (*2*) in line 3, for the word "two" the word "four" and in line 4 for the word "one" the words "two and a half" be substituted.

The motion was lost.

Mr. PRESIDENT: The question before the House is that in clause 25 in proposed section 88(*4*) in line 4, for the words "one rupee" the words "two rupees" be substituted.

The motion was lost.

Mr. NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 25 of the Bill in sub-section (*4*) of the proposed section 88 after the word "payment" occurring in line 3, the words "in the prescribed manner" be inserted and after the words "mutation fee" occurring in line 4, the following brackets and words be inserted, namely, "(by money order in case of a sole landlord or in the case of several landlords, their common agent, if any)".

Sir, the law provides for the payment of one rupee as mutation fee, and according to ordinary procedure, this amount will have to be deposited by the tenant and withdrawn by the landlord. I beg to submit that on account of the well-known, rather notorious, reasons there is plenty of extra expenditure incurred by the tenant in depositing the money and also by the landlord in realising it. On both sides, so far as my experience goes, something more than one rupee is spent, whereas if the money is sent by money order to the sole landlord or in the case of several landlords to their common agent, it would be beneficial to both the parties concerned. Sir, this is an amendment which, I think, both sections of the House representing the landlords and the tenants should accept.

Mr. PRESIDENT: Motion moved that in clause 25 of the Bill in sub-section (*4*) of the proposed section 88 after the word "payment" occurring in line 3, the words "in the prescribed manner" be inserted and after the words "mutation fee" occurring in line 4, the following brackets and words be inserted, namely, "(by money order in case of a sole landlord or in the case of several landlords, their common agent, if any)".

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I just want to point out to my friend that it is not necessary to put it in the body of the Act, because it can be left to the rule-making power of Government as to how it should be paid.

Mr. NAZIRUDDIN AHMAD: In view of the assurance given by the Hon'ble Minister, I beg leave to withdraw my motion.

Mr. PRESIDENT: Is it the pleasure of the House that the motion be withdrawn?

The motion was by the leave of the House withdrawn.

Mr. KAMINI KUMAR DUTTA: Sir, before I move the amendment No. 234 of the List of Amendments I beg to submit that I want to move only one portion of my amendment, because the other portion will not be necessary at all.

I beg to move that in clause 25, after sub-section (*6*) of proposed section 88, the following sub-section be added, namely:—

"(*7*) In this section the expression 'tenure' shall include *patni*-tenure."

My point is that when this right of division is being given, it should be extended to *patni*-tenure-holders also.

Mr. PRESIDENT: Motion moved that in clause 25 after sub-section (*6*) of proposed section 88, the following sub-section be added, namely:—

"(*7*) In this section the expression 'tenure' shall include *patni*-tenure."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I just want to point out that the effect of this amendment would be that *patnidars* would get the right to divide the tenures amongst themselves which would mean that the zemindar's security would deteriorate. The whole *patni* is liable to sale for arrears of rent, and if it is divided, the rent will also be divided and nobody knows which portion of the *patnis* is valuable. Suppose a portion of the *patni* is not valuable and if there is a surrender of that portion according to the convenience of the defaulting *patnidars*, then what will be the position of the zemindar? He cannot probably realise all his rent from the portion of the tenure which is unprofitable.

Mr. PRESIDENT: The question before the House is that in clause 25 after sub-section (*6*) of proposed section 88, the following sub-section be added, namely:—

"(*7*) In this section the expression 'tenure' shall include *patni*-tenure."

The motion was lost.

Mr. PRESIDENT: The question before the House is that clause 25 stand part of the Bill.

The motion was agreed to.

Clause 26.

Mr. PRESIDENT: The question before the House is that clause 26 stand part of the Bill.

The motion was agreed to.

Clause 27.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that sub-clauses (*1*) and (*2*) of clause 27 be omitted and sub-clauses (*3*) and (*4*) be renumbered as sub-clauses (*1*) and (*2*), respectively.

Sir, my reason for moving this amendment is that even the amendment to section 26C renders notice necessary. So I do not see why such notices should not be served on the common agent, and it will in no way injure the interests of the tenants. So, I commend this amendment to the acceptance of the House.

Mr. PRESIDENT: The question before the House is that sub-clauses (*1*) and (*2*) of clause 27 be omitted and sub-clauses (*3*) and (*4*) be renumbered as sub-clauses (*1*) and (*2*), respectively.

The motion was lost.

Mr. PRESIDENT: The question before the House is that clause 27 stand part of the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I just want to mention one thing that section 26F was put in here as a result of the change made by the Select Committee. So, what I suggest is this that the original bill-clause should be restored.

Mr. PRESIDENT: You mean section 26F?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That requires drafting changes which will take time. So that may be left to the draftsman, Sir, because section 26F deals with the right of pre-emption. The landlord's right of pre-emption is being taken away. So that will go out.

Mr. PRESIDENT: I will leave out clause 27 for the time being.

Clause 28.

Mr. PRESIDENT: The question before the House is that clause 28 stand part of the Bill;

The question was agreed to.

Clause 29.

Mr. PRESIDENT: The question before the House is that clause 29 stand part of the Bill.

The question was agreed to.

Clause 30.

Rai Sahib JATINDRA MOHAN SEN: Sir, with regard to this amendment No. 238 in the List of Amendments it has relation to chapter XIVA. So, this should be moved, Sir, after we know the fate of chapter XIVA.

Mr. PRESIDENT: Yes, quite right.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not move it, Sir.

Mr. PRESIDENT: As a matter of fact it will not be correct for you to move an amendment to your own Bill. The correct procedure will be for somebody else to move, if that is necessary.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is not necessary, Sir.

Mr. PRESIDENT: The question before the House is that clause 30 stand part of the Bill.

The question was agreed to.

Mr. HUMAYUN KABIR: You have already reserved certain portion for consideration later on, *i.e.*, about clause 30.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, may I just point out that there is reference to section 177A in clause 30 and that will depend on what attitude the House will take with regard to chapter XIVA?

Mr. PRESIDENT: That was Rai Sahib's contention. But it is not with regard to the whole clause.

Clause 31.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that in clause 31 of the Bill, after sub-clause (*1*), the following sub-clause be inserted:—

"(*1a*) For clause (*e*), the following shall be substituted, namely:—

'(*e*) Where the rent of a tenancy has been entered in a record-of-rights finally published under chapter X or where such rent is payable under a registered lease between the

landlord and the tenant, or where the annual rent payable in respect of a tenancy has been declared in a suit between the landlord and the tenant, the summons shall be a special summons for the final disposal of the suit. In other classes of rent suits, the summons may be for the settlement of issues only, if the court considers it necessary. Where the summons is for disposal of the suit, it shall be returnable after service within forty-five days'."

Sir, I move this amendment in order to expedite the time during which an ordinary suit under ordinary procedure may be completed. The present Bengal Tenancy Act provides for the issue of a special summons under clause (*k*) (*i*) of section 148. There the discretion for issuing a special summons has been given to the court. It runs thus:

"Notwithstanding anything contained in the Code of Civil Procedure, 1908, where a suit.....the court may, if the plaintiff desires to proceed under this section, issue a special summons in the prescribed form."

My amendment proposes that no discretion should be left with the court, but that in those cases the court shall issue a special summons and the summons shall be returnable within forty-five days from the date of the institution of the suit. In that way a lot of time will be saved and in my amendment I have proposed that in other classes of rent-suits, the summons may be for the settlement of issues only, if the court considers it necessary. So my amendment does not propose any fundamental change in section 148. It is only for the purpose of expediting the completion of a rent-suit as early as possible, and in this view I have proposed that special summons shall be used in cases where the rent-suits fall under the clauses mentioned in this amendment.

Mr. PRESIDENT: Motion moved that in clausae 31 of the Bill, after sub-clause (*l*), the following sub-clause be inserted:—

"(*l*) For clause (*e*), the following shall be substituted:—

'(*e*) Where the rent of a tenancy has been entered in a record-of-rights finally published under chapter X. of where such rent is payable under a registered lease between the landlord and the tenant, or where the annual rent payable in respect of a tenancy has been declared in a suit between the landlord and the tenant, the summons shall be a special summons for the final disposal of the suit. In other classes of rent suits, the summons may be for the settlement of issues only, if the court considers it

necessary. Where the summons is for disposal of the suit, it shall be returnable after service within forty-five days'."

Sir Bijoy, I believe you do not like to speak on this?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I shall simply oppose this amendment.

Mr. PRESIDENT: Rai Sahib Sen wants the Chair to put this to vote after the fate of the new chapter (XIVA) is decided. The Chair will be agreeable to postpone it till then. So the question is now postponed and I will put it afterwards.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, I beg to move that in clause 31, sub-clauses (2) (*c*), (2) (*d*) and (2) (*e*) be omitted and after sub-clause (2) the following new sub-clause be added, namely:—

"(3) after clause (*o*) the following clause shall be inserted, namely:—

'(*p*) (*i*) notwithstanding anything contained in the Civil Procedure Code any decree passed in respect of arrears of rent by any court under this section shall be transferred to the Collector of the district within which such court is situated for execution thereof, and for the purposes of execution of such decrees the provisions set forth in Schedule III of the Civil Procedure Code shall apply *mutatis mutandis*;

(*ii*) in executing a decree transferred to the Collector under sub-clause (*p*) aforesaid the Collector and his subordinates shall be deemed to be acting judicially;

(*iii*) the Local Government may make rules for the operation of the aforesaid provisions, consistent therewith'."

Sir, I am not so short-sighted as not to be able to visualize the fate which awaits my motion. But, I think the tenacity shown in discharging one's duty should not be misplaced or misunderstood. And I think it will not be mistaken for obstinacy on my part, although I confess that I am determined to retard the speed and progress of the American Express which is carrying this Bill through to the Lower House. I really find great pleasure in slowing it down. (Laughter.) We do not like to be carried off our feet. I am further encouraged by the idea that no reasonable friend of the tanant is against speedy realisation of just and fair rent. Whenever I met my friends on my left outside this Chamber, I understood them to say

that they are in favour of speedy realisation of rent if it could be done within reasonable limits. Now, one after another, our cherished and valued rights have been threatened with extinguishment—whether ultimately they will be taken away or not is another matter—but for our present purpose we may assume that they have been taken away——

Dr. RADHA KUMUD MOOKERJI: What do you mean by "our rights"?

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: I mean the landholders and I include you among them (laughter).

Now all that have been left is "rent". I don't know if the House is prepared to enable the landholders to collect their rent. If they are, they should accept my most modest amendment. Let the House pronounce their verdict against those tenants who are habitual defaulters. Here is an opportunity for them to show that they are wholeheartedly for realisation of rent, and for that matter for speedy realisation of rent. My motion, if it is carried, will mean no hardship to tenants. It will merely provide a way out of the dilatory process of ordinary rent suits. Well, I think, I can reasonably expect the House to support my amendment and that is the last request that I am making to my friends on my left. I appeal to them to give their best consideration to this matter instead of sweeping away the amendments only, because it has come from this side of the House.

Mr. PRESIDENT: Motion moved that in clause 31, sub-clauses (*2*) (*c*), (*2*) (*d*) and (*2*) (*e*) be omitted and after sub-clause (*2*) the following new sub-clause be added, namely:—

"(*3*) after clause (*o*) the following clause shall be inserted, namely:—

'(*p*) (*i*) notwithstanding anything contained in the Civil Procedure Code any decree passed in respect of arrears of rent by any court under this section shall be transferred to the Collector of the district within which such court is situated for execution thereof, and for the purposes of execution of such decrees the provision set forth in Schedule III of the Civil Procedure Code shall apply *mutatis mutandis;*

(*ii*) in executing a decree transferred to the Collector under sub-clause (*p*) aforesaid the Collector and his subordinates shall be deemed to be acting judicially;

(*iii*) the Local Government may make rules for the operation of the aforesaid provisions, consistent therewith'."

Mr. NAZIRUDDIN AHMAD: Sir, I rise on a point of order. There is a technical defect in the wording of this amendment. I find that it is said that—

"(3) After clause (*o*), the following clause shall be inserted, etc., etc."

This cannot be inserted "After clause (*o*) of sub-clause (*2*) of the proposed main clause 31", because, Sir, I find that in sub-clause (*2*) there are only clauses up to (*e*). Possibly this sub-clause (*o*) has connection with section 148 of the Act, because on reference thereto, we find that there is sub-clause (*o*). So, I should suggest that for "clause (*o*)" it should be mentioned "sub-section (*o*) of section 148 of the Act", and for the word "clause" following that, the word "sub-section" should be inserted. There should be merely a drafting change.

Mr. PRESIDENT: It is a verbal change, and will the Maharaja accept his amendment if that alteration is made?

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, I am prepared to accept the change, but, is he prepared to accept my amendment in the new form? (Laughter.)

Mr. NAZIRUDDIN AHMAD: I am prepared to accept the form and not the substance. Only to make the amendment correct, I suggested the insertion.

Khan Bahadur ATAUR RAHMAN: What I want to say is that you postponed the first part of clause 31 proposed by Rai Sahib Jatindra Mohan Sen till we finish that chapter (XIVA). This also may be taken up after finishing that chapter.

Mr. PRESIDENT: I entirely agree—yes, after your clause, namely, clause 33A of the Bill is taken up. It has been only moved.

Rai Sahib JATINDRA MOHAN SEN: This has also reference, though not direct, to chapter XIVA, but my motion is for expediting the realisation of rent by the ordinary procedure.

Mr. PRESIDENT: Then this will also be moved afterwards.

Rai Sahib JATINDRA MOHAN SEN: With your permission, Sir, I should like to move the amendment No. 249 later on.

Mr. PRESIDENT: Yes, you can move it later on.

Mr. KAMINI KUMAR DUTTA. Mr. President, Sir, I beg to move that in clause 31 of the Bill, in sub-clause (2) (*d*), after the proposed sub-clause (*iiia*), the following sub-clause be inserted, namely:—

"(*iiib*) The provisions of aforesaid sub-clauses (*iii*) and (*iiia*) of clause K shall be applicable also in cases of realization of rents in estates belonging to Government or under the management of the Court of Wards or of the Revenue authorities where the procedure for the realization of rents is regulated by the provisions of Bengal Public Demands Recovery Act by execution of certificate taking the expression decree in the aforesaid sub-sections to include certificate".

Now, Sir, it appears that in amending the main section 148 of the Bengal Tenancy Act in clause 31 some special relief has been provided in favour of tenants in the matter of execution of decrees. For instance, in sub-clause (*c*) it has been stated: "at the end of sub-clause (*iii*) the following shall be inserted, namely:—

'and no action in execution of a decree shall be taken until a period of sixty days has elapsed since the date of the decree'."

In another sub-clause, i.e., sub-clause (*d*) it has been provided: "after sub-clause (*iii*) as so amended, the following sub-clause shall be inserted, namely:—

'(*iiia*) notwithstanding anything contained in section 34 of the Code of Civil Procedure, 1908, no interest shall be payable from the date of the decree on the aggregate sum decreed, if such aggregate sum is paid in full by the judgment-debtor within sixty days from date of the decree'."

So, it appears that when there is a civil court decree, after giving full opportunity to the tenant to fight out his complaint before a competent court, clemency has been shown in the shape of allowing him an interval of sixty days, during which the decree cannot be executed, and giving him the further relief that in spite of the provisions of section 34 of the Civil Procedure Code which gives the court the right to allow interest from the date of the decree, even there the right of the court has been curbed. But it is really curious to note that those who pose themselves as the guardians of the interests of the tenants here are not prepared to show any consideration when it comes to the question of the realization of rents either by the *khas mahals* or by estates under the management of Government under the Public Demands Recovery Act. In the case of decrees, tenants have full opportunity of contesting them and it is well known that there is no danger of immediate execution of the decrees, and we find that it was thought proper by Government and very rightly too to give a time for

breathing to the tenants, so that decrees might not be executed immediately, but it was forgotten, Sir, by Government to extend the same feeling of sympathy when the question arose for realization of rent under the Public Demands Recovery Act by Government in *khas mahals* and in estates under the management of the Court of Wards. Sir, my amendment is a humble and a very proper one, and I submit that the same sort of clemency should be shown to tenants of *khas mahals* and Wards' estates. I do not see, Sir, any reason why if really this love for tenants is not mere pretence, it should not be extended to all classes of tenants.

Mr. PRESIDENT: Motion moved that in clause 31 of the Bill, in sub-clause (*2*) (*d*), after the proposed sub-clause (*iiia*), the following sub-clause be inserted, namely:—

> "(*iiib*) The provisions of aforesaid sub-clauses (*iii*) and (*iiia*) of clause K shall be applicable also in cases of realization of rents in estates belonging to Government or under the management of the Court of Wards or of the Revenue authorities where the procedure for the realization of rents is regulated by the provisions of Bengal Public Demands Recovery Act by execution of certificate taking the expression decree in the aforesaid sub-sections to include certificate".

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to point out that this amendment is outside the scope of the Bill, because this is an indirect attempt to amend the Court of Wards Act and the Bengal Public Demands Recovery Act.

Mr. KAMINI KUMAR DUTTA: On a point of order, Sir. What I have got to say is that the whole of the clause may seem to be inoperative, because you are thereby going to amend the Civil Procedure Code, inasmuch as the operation of section 34 has been suspended, and the Civil Procedure Code is, I submit, an Act of the Central Legislature. So, if you can amend the Civil Procedure Code, there is no reason why the provisions of the Public Demands Recovery Act cannot also be modified. The underlying principle is to see whether it is really for the good of the people. (Hear! Hear!!)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the provisions of the Civil Procedure Code have certainly been modified to a certain extent with regard to its application to rent cases under the Bengal Tenancy Act, and I would refer you, Sir, to section 148 of the Act. That is the principle which has been accepted in the Bengal Tenancy Act, and therefore it is within the scope of the Act. But here my hon'ble friend seeks to modify the Public Demands Recovery Act in a way which is not within the four corners of this Act.

Mr. HUMAYUN KABIR: Sir, I submit that the Bengal Public Demands Recovery Act has been mentioned only incidentally to grant relief to tenants of *khas mahals* and Wards' estates. If Government really desire to grant relief to tenants as a class, there is no reason why they should confine their sympathy to a certain class of tenants. I repeat, Sir, that I do not see any reason why identical relief should not be granted to tenants who belong to *khas mahals* and Wards' estates. If incidentally there is a request for modification of some of the provisions of the Bengal Public Demands Recovery Act, I submit, Sir, that that is not the main object of this amendment; that is only incidental.

Mr. PRESIDENT: I hold the amendment to be in order. (Hear! Hear!!)

The question before the House is that in clause 31 of the Bill, in sub-clause (2) (*d*), after the proposed sub-clause (*iiia*), the following sub-clause be inserted, namely:—

"(*iiib*) The provisions of aforesaid sub-clauses (*ii*) and (*iiia*) of clause K shall be applicable also in cases of realization of rents in estates belonging to Government or under the management of the Court of Wards or of the Revenue authorities where the procedure for the realization of rents is regulated by the provision of Bengal Public Demands Recovery Act by execution of certificate taking the expression decree in the aforesaid sub-sections to include certificate".

The House divided:—

AYES—12.

Chaudhury, Mr. Moazzemali.
Chowdhury, Mr. Hamidul Huq.
Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Dutta, Mr. Kamini Kumar.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Haresh Nath.
Mookerji, Dr. Radha Kumud.
Pal Chowdhury, Mr. Ranajit.
Sanyal, Mr. Sachindra Narayan.
Sinha, Rai Bahadur Surendra Narayan.

NOES—24.

Ahmad, Mr. Naziruddin.
Ahmad, Mr. Mosbahuddin.
Bakah, Mr. Kader.
Banerjee, Rai Bahadur Keshab Chandra.
Barua, Dr. Amulya.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Humayun Reza.
Esmail, Khwaja Muhammad.
Hasain, Khan Bahadur Saiyed Muazzamuddin.
Huq, Mr. Syed Muhammad Shaziul.
Ibrahim, Khan Bahadur Maulvi Mohammad.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Khan, Maulana Muhammad Akram.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Rahman, Khan Bahadur Ataur.
Rahman, Mr. Mukhlesur.
Roy, Rai Bahadur Radhica Bhusan.
Roy Chowdhury, Mr. Krishna Chandra.
Sen, Rai Sahib Jatindra Mohan.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Saileswar.

The motion was lost.

Rai MANMATHA NATH BOSE Bahadur: Sir, I beg to move that in clause 31 of the Bill sub-clause (*2*) (*e*) be omitted.

I suggest the omission of this sub-clause for the reason that if there be no order for deposit, there will be too many harassing petitions for setting aside decrees. The deposit of one-half of the amount is a safeguard against such applications. I, therefore, hope that this amendment will be accepted.

Mr. PRESIDENT: Motion moved that in clause 31 of the Bill sub-clause (*2*) (*e*) be omitted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I oppose this amendment.

Mr. PRESIDENT: The question before the House is that in clause 31 of the Bill, sub-clause (*2*) (*e*) be omitted.

The motion was lost.

Mr. HUMAYUN KABIR: I beg to move that in clause 31 of the Bill after sub-clause (*2*), the following sub-clause be added at the end, namely:—

"(*3*) After clause (*o*), a new clause shall be added, namely:—

'(*p*) Notwithstanding anything contained elsewhere, the cost of summons on the co-sharer landlord-defendants in a rent suit shall not be realisable from the tenant-defendant under any circumstances'."

Sir, in moving this I have made a verbal amendment in order to conform to the ruling which you gave a little while ago in respect of a similar amendment under this very clause. The purpose of this amendment is to protect the tenant from vexatious suits. In certain cases, in order to realise a very small arrears of rent a large number of co-sharer landlord-defendants are also brought into the suit and the cost of summons is charged upon the defendant-tenant. The result is that sometimes in order to realise the arrears of even two, three or six rupees, the cost of summons goes up to Rs. 100 or more. I am sure that the revenue officers of the Government will bear me out from their experience that this has been the case on many occasions. Very often it happens that if a particular landlord has any sort of grudge against a particular tenant, he may, in order to harass him, bring a suit against him and if the arrear of rent be such that he can pay it, his difficulty may be increased by making the co-sharer landlords parties to the suit. The cost of summons may amount up to almost a prohibitive figure. In

order to protect the tenants from this unnecessary and vexatious prosecution, I have moved this amendment. It does not in any way interfere with the right of the landlord to realise his rent; but it will only protect the tenants from the vexatious and undue imposition of the cost of summons by making the co-sharer landlords parties to the suit.

Mr. PRESIDENT: Motion moved that in clause 31 of the Bill after sub-clause (*2*) the following sub-clause be added at the end, namely:—

"(*3*) After clause (*o*), a new clause shall be added, namely:—

'(*p*) Notwithstanding anything contained elsewhere, the cost of summons on the co-sharer landlord-defendants in a rent suit shall not be realisable from the tenant-defendant under any circumstances'."

Mr. PRESIDENT: The question before the House is that in clause 31 of the Bill after sub-clause (*2*) the following sub-clause be added at the end, namely:—

"(*3*) After clause (*o*), a new clause shall be added, namely:—

'(*p*) Notwithstanding anything contained elsewhere, the cost of summons on the co-sharer landlord-defendants in a rent suit shal not be realisable from the tenant-defendant under any circumstances'."

The motion was lost.

Mr. PRESIDENT: I shall not put clause 31 now, because some of the amendments have not been put to the House.

Clause 32.

Mr. PRESIDENT: The question before the House is that clause 32 stand part of the Bill.

The question was agreed to.

Clause 33.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I beg to move that clause 33 of the Bill be omitted.

This clause relates to certificate procedure. In the present Act this clause deals with the easy method of realisation of rent, but Government now propose to omit the clause altogether on the ground that there had been harassment in the past of the tenant in realising the rent by this procedure. If that be so, I beg to state that there cannot

be any difference between one class of tenant and another class. If this clause be omitted, only the tenants under the zemindars who have not given their estates under the Court of Wards or the tenants who have not got land in the Government *khas mahal* will not be affected. Tenants of Government *khas mahal* have the same advantage and disadvantage as the tenants of private landlords. If this clause be taken as a harassment on the part of the tenants, there cannot be any justification for the Government to say that this clause would not affect the tenants of the *khas mahal*. The other day the Hon'ble Revenue Minister declared that the procedure had been suspended for the next two years. There is nothing to show that it would be suspended for ever.

Another thing which I wish to bring to the notice of this House is that for the last five or ten years if one would look to the proceedings of the Legislative Council, he would find that several questions were asked with regard to the certificate procedure against *khas mahal* tenants. I can say that if there be any harassment of the tenants in the exercise of this chapter, it would be more on the tenants of *khas mahal* than those of private landowners. The reason is obvious. The *khas mahal* is under the control of Deputy Collector and the Certificate Department under another. It is natural that the latter should see that there is much more realisation from the tenants of the *khas mahal* in charge of his colleague. In order to do that he issues distress warrant to the harassment of the tenants. On the other hand, he does not care for the rent to be realised by the private landlords and from my own experience I find that he always gives time for the realisation of rent. Even in some cases the Certificate Officer gives about three to five years' time. It is an admitted fact that if there be any harassment of the tenant on account of the realisation of rent under the Public Demands Recovery Act, it is more to the credit of the *khas mahal*. So long this chapter will remain, there can be no justification to withdraw it from one set of people only. With these words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Motion moved that clause 33 of the Bill be omitted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I can assure my friend the Raja Bahadur of Nashipur that nobody is more anxious than myself to see that proper facilities are given to landlords for realisation of rent. I do agree with him that the realisation of rent by certificate procedure is cheaper in the long run and if rigours of the certificate procedure can be removed which the Government were quite prepared to do, probably it would have been better both for the landlords and the tenants to retain that provision on the Statute Book, but public opinion seems to be very much against it and a popular

Government must go by the public opinion. Out of deference to the wishes of the majority of the members of both the Houses, Government decided to repeal this section from the Bengal Tenancy Act and to suspend the operation of the certificate procedure in Court of Wards and *khas mahal* estates at least for two years. Government would like to see how things move on. If the tenants pay rent regularly, the ordinary law will suffice; if the rents are not paid regularly, Government will have to devise some means for helping the landlords to realise rent quickly. I hope the tenants will co-operate in this matter. This is a natural corollary to the Government's decision to suspend the operation of the certificate procedure in *khas mahal* and Court of Wards' estates and to their agreeing to the repeal of this section of the Bengal Tenancy Act. I can assure the landlords that I am as much anxious as my hon'ble friend opposite to see that rents are properly and regularly realised.

Khan Bahadur ATAUR RAHMAN: Sir, I rise to oppose the motion of Raja Bahadur of Nashipur. I would not have stood up, had the Hon'ble Revenue Minister taken the personal responsibility for opposing it. He has opposed this only from the public point of view, but as a landlord he did not oppose it.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Certainly not. I do not believe in it.

Khan Bahadur ATAUR RAHMAN: Personally, I have myself suffered from certificate procedure. I suggest that this procedure should be suspended in all *khas mahals* as I think that all *khas mahals* should come under the same procedure as the zemindaries under the Court of Wards. Why should a particular person be in a better position? The members of the Legislature are trying to have it eliminated from *khas mahals* as well as from the Court of Wards. Let us proceed with the zemindars for the present (laughter). Already in the *khas mahals* there are some benefits which we do not find in any private zemindari. In the *khas mahals* Government spend some money for the improvement of tenants, their education and for drinking water; do we get these things from the zemindars? Never; up till now I have not seen anything like that.

With these few words, I oppose the amendment of the Raja Bahadur of Nashipur.

Mr. PRESIDENT: The question before the House is that clause 33 of the Bill be omitted.

The motion was lost.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, I beg to move that for clause 33, the following clause be substituted, namely:—

"33. In section 158A of the said Act after clause (*b*) of the proviso to sub-section (*5*), the following proviso be inserted, namely:—

'(*c*) No certificate shall be signed if the certificate-debtor satisfy the officer that he is an actual cultivator and himself cultivates the land of his tenancy'."

Sir, we are still in the woods, desperately struggling to extricate ourselves from the law of the jungle—the law of the teeth and claws—might is right. Everything is being swept away with such unseemly haste that we do not know what to do; but nevertheless I shall take courage in both hands and cry out for a little mercy at this stage; I still hope that it will not be a cry in the wilderness. I have made a very reasonable proposal. We have great sympathy with the tillers of the soil. My amendment will bring relief to their door, but what about the non-cultivating, rent-collecting so-called cultivators and tenants—I mean the intermediaries? My proposition is that let the real tillers of the soil be exempted from the operation of the certificate procedure, but let it with the modifications which I have suggested take appropriate effect only on the intermediaries. So far as the intermediaries are concerned, they are rich enough not to be defaulters —there is no earthly reason as to why they should not pay off their dues to the landlords and I think the certificate procedure should be retained and should be given effect to operate against them. Now this is a gesture which I am making on behalf of the landholders. If you are really willing to help the real tillers of the soil, accept my amendment and at the same time help the landholders to realise their legitimate dues from land. You have taken away practically everything from them—only the rent remains—let that be realised. The Hon'ble Revenue Minister has said that so far as the *khas mahals* are concerned, the certificate procedure will be suspended only for two years, so why not do the same in respect of private estates also? I do not see any reason why you should make one law for the *khas mahals* and another for private zemindars. Let them be on the same level.

The Hon'ble Mr. H. S. SUHRAWARDY: We do not take *abwabs*.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: But the Revenue Minister knows what you do. Besides, he should be able to realise that total abolition will inflict a great loss on those who have incurred a large expenditure to have this privilege. It was never given free to the landholders by Government; in a manner

they had to purchase it—they had to pay for it—a very handsome price too. They have done all what Government wanted them to do for this privilege, and now, by one stroke of the pen you want to take it away from them. What about the money that has been spent? Is this just, is this equitable? I think it is incumbent on Government to follow a *via media*. Either let there be suspension for two years as they have decided in the case of *khas mahals* or exempt from its operation only the real tillers of the soil who need help and who may be in distress. I very much wish that they may be exempted from the operation of chapter XIIIA and if my suggestion is accepted, they will be exempted. But I think my friends on my left should think twice before they stand up and say that even the rich intermediaries should have similar relaxation.

Mr. PRESIDENT: Motion moved that for clause 33, the following clause be substituted, namely:—

"33. In section 158A of the said Act after clause (*b*) of the proviso to sub-section (*5*), the following proviso be inserted, namely:—

'(*c*) No certificate shall be signed if the certificate-debtor satisfy the officer that he is an actual cultivator and himself cultivates the land of his tenancy'."

Mr. NAZIRUDDIN AHMAD: Sir, I rise to oppose the amendment. The hon'ble Maharaja of Santosh has been pleased to declare that the members to his left, meaning those of the Coalition party, are carrying everything by the "law of the jungle," that is by "force", and that, with them, "might was right", but what was the story in the year 1928? At that time my hon'ble friend opposite the gallant Maharaja was on the Chair and the landlords carried everything before them with the help of the Swarajists and the Government —by the "law of the jungle". The tenants' representatives—they were only seven or eight in number—an insignificant minority—pleaded for mercy, but they were never listened to. Everything was carried by the strength of votes and at the point of the bayonet. But within these ten years times have changed.

Rai KESHAB CHANDRA BANERJEE Bahadur: That was the result of a compromise.

Mr. NAZIRUDDIN AHMAD: I say, Sir, there was no compromise.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Yes, there was a compromise.

Mr. NAZIRUDDIN AHMAD: There was no compromise whatever. If there was any compromise, it was amongst the landlords and their supporters. The only compromise was that the landlords very generously agreed to reduce the *selami* from 25 to 20 per cent.! It was a unilateral compromise and the tenants' representatives had nothing to do with it. Now, Sir, at that time there was a humble gentleman who pleaded for mercy and prayed for even a slight reduction in the *selami*. He was not listened to. But in these ten years, sooner than anybody could dream at that time, enormous changes have taken place. A vast electorate has been liberated and that humble gentleman with a beggar's bowl in 1928 is to-day the Chief Minister of Bengal with a vast electorate behind him. Times are moving very fast and the landlords of the "Progressive" group should also move with the times. They should not sit like so many immovable properties; they too must march with the times. They should emulate the splendid self-sacrifice shown by the more numerous landlords of the Coalition group and be really "progressive" and not "retrogressive." It is said that the landlords have an affection for the "tillers of the soil". I beg to submit—I will not use a hard expression—I submit that this is a most unreal contention to make. The cry "the tillers of the soil" signifies an attitude of retaliation by the landlords towards the middle classes. Frankly, the position is this; the landlords argue that the middle classes are depriving them of their so-called and age-long cherished rights; they must therefore retaliate; but this must not be done too openly; they, therefore, pretend some concern and simulate some sort of affection for the under-raiyats and similar other persons and style them as "the tillers of the soil." The term "tillers of the soil" is a well-known and—I submit—well-understood expression used in the rich literature relating to the Permanent Settlement. At that time "tillers of the soil" meant and corresponded with the forefathers of the present middle class of Bengal. Now this expression has been unearthed by some ingenious brain from its context and without trying to attribute to it its well-known historical meaning, they substitute therefor the dictionary meaning of the expression and exclaim that the "tillers of the soil" are those who are immediately behind the plough. This is a classical example of Cant and sophistry, but this is neither history nor logic, nor justice. I submit that the landlords' affection for the "tillers of the soil" is a gigantic hoax and a last-minute attempt to squeeze out the middle classes whom they regard as their enemies. I venture to submit that the middle classes of Bengal—the backbone of the province—are not strangers in the land. They had rights, they had "property in the soil" in spite of what Sir John Shore and Lord Cornwallis said. There are numerous other historians and scholars who have made a deep research into their rights and have spent their lifetime on this fragment of history. There are the weightiest judicial pronouncements—there are the

erudite Tagore Law Lectures. These authorities have come to the unanimous conclusion that the so-called "proprietary rights" of the landlords supposed to have been created by the Permanent Settlement, were subject to the numerous rights enjoyed by the tenants. If it is now said that the ordinary tenant had no rights under the Hindu system or under the Muhammadan system of jurisprudence, then I submit, the entire sacred law of the Hindus and the Muhammadans and their rich legal literature will have to be burnt to ashes. It is a great disgrace to say that the men under these splendid systems of jurisprudence had no rights to transfer their holdings and had no "property" in their holdings. In these circumstances I beg to submit that the less they pretend concern for the "tillers of the soil" the better. It is a frantic attempt to expropriate the middle classes on a gigantic scale. It is a flank movement by the landlords, and when this would be understood by the people, the attempt will recoil on its authors with terrible consequences. The simple question is whether the landlords are entitled to any *selami* or to any other privileges which they are enjoying at the present moment, and the question does not depend upon whether a third party—the so-called "tillers of the soil"—should be set up to deprive the middle classes of their properties and right.

The Maharaja has said that Government are trying to do away with the so-called rights of the landlords by a "stroke of the pen." I submit, it is perversion of history to say so. I submit, on the contrary, that the rights of the landlords were created by a "stroke of the pen" in the year 1793 against the opinion and advice of the greatest revenue experts of those days. Even Sir John Shore—so much beloved of the landlords—was dead against a Permanent Settlement. And it is now the considered opinion of well-informed and well-read people that that was a colossal mistake. Sir, the so-called rights of the landlords have not been taken away by a "stroke of the pen." It has taken just one hundred and forty-five years to restore to the tenants only some of the rights that had been taken away from them. There was a slight improvement in their condition in the year 1859 when the first Tenancy Act was passed and a little more by the Act of 1885. In 1928, however, there was a severe setback and the present Bill is an attempt to restore the balance to some extent. And it has taken all these one hundred and forty-five years to accomplish this. Therefore, Sir, nothing has been or is being done by a "stroke of the pen." The hon'ble Maharaja has only raised a false alarm. With these words, Sir, I oppose the amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I simply oppose this amendment as I have already explained to my hon'ble friend the Maharaja of Santosh and other friends opposite that we

have to bow down to public opinion at present and wait and see how things develop. So, there is no option left and I cannot but repeat "let us accept the inevitable, though very reluctantly."

Mr. PRESIDENT: The question before the House is that for clause 33, the following clause be substituted, namely:—

"33. In section 158A of the said Act after clause (*b*) of the proviso to sub-section (*5*), the following proviso be inserted, namely:—

'(*c*) no certificate shall be signed if the certificate-debtor satisfy the officer that he is an actual cultivator and himself cultivates the land of his tenancy'."

The motion was lost.

Mr. PRESIDENT: The question before the House is that clause 33 stand part of the Bill.

The motion was agreed to.

Clause 21.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, before you take up clause 33A, I may tell you that the drafting changes in clauses 21 and 27 are now ready. I suggest that following sub-sections be substituted for the amendment of Rai Manmatha Nath Bose Bahadur (amendment No. 199 of the List of Amendments).

Sir, I beg to move that in clause 21 of the Bill after sub-clause (*2*) of the proposed section 175A, the following sub-section be added at the end, namely:—

"(*3*) Notwithstanding anything contained in this Act or in any other law the period during which a decree, order or contract is rendered inoperative under this section shall not be taken into account in computing any period under the Law of Limitation nor in construing the terms of a contract."

Mr. PRESIDENT: Is it acceptable to Rai Manmatha Nath Bose Bahadur?

Rai MANMATHA NATH BOSE Bahadur: Yes, Sir.

Mr. PRESIDENT: The question before the House is that in clause 21 of the Bill after sub-clause (*2*) of the proposed section 175A, the following sub-section be added at the end, namely:—

"(*3*) Notwithstanding anything contained in this Act or in any other law the period during which a decree order or contract is rendered inoperative under this section shall not be taken into account in computing any period under the Law of Limitation nor in construing the terms of a contract."

The motion was agreed to.

Mr. PRESIDENT: The question before the House is that clause 21, as amended, stand part of the Bill.

The motion was agreed to.

Clause 27.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, there is another amendment. Clause 27 is still standing over, to which I propose to move a verbal amendment. Sir, I beg to move that in place of sub-clause (*1*) of clause 27 the following be substituted, namely:— That in clause A for the word, figures and letters "26C, 26F and 48H" the word, figure and letter "and 26C" be substituted. That is practically restoring the original Bill clause.

Mr. PRESIDENT: The question before the House is that in place of sub-clause (*1*) of clause 27 the following be substituted, namely, that in clause A for the word, figures and letters "26C, 26F and 48H" the word, figure and letter "and 26C" be substituted.

The motion was agreed to.

Mr. PRESIDENT: The question before the House is that clause 27, as amended, stand part of the Bill.

The motion was agreed to.

Clause 33A.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I just take leave of the House to withdraw this clause 33A?

Mr. PRESIDENT: Order, order. The report of the Select Committee has been presented by the Hon'ble Minister, and the correct procedure will be for Mr. Nur Ahamed or any other private gentleman who has given notice for the omission of clause 33A, to move the motion for its deletion.

Khan Bahadur ATAUR RAHMAN: Sir, this is an amendment, in my name, and for this I have been blessed by members of the Congress and the Progressive parties. So, apparently, this clause is not wanted by anybody in this House. Apart from its merits, I think, it is out of place here——

Mr. PRESIDENT: You must first move your motion, Khan Bahadur.

Khan Bahadur ATAUR RAHMAN: I beg to move that clause 33A of the Bill be omitted.

Mr. LALIT CHANDRA DAS: On a point of order, Sir. Chapter XIVA cannot be brought within the scope of this amending Bill. Sir, the object of the Bill is not to attempt a radical reform of the existing system of land tenure, but to lessen the burden on the cultivator by making such amendments to the law as appear to be most urgently required. Sir, some of the existing provisions of the Bengal Tenancy Act have been found to operate very harshly on the cultivators——

Mr. PRESIDENT: No speech is allowed on a point of order. You have already stated your case.

Khan Bahadur ATAUR RAHMAN: Sir, my friend Mr. Das was very anxious to explain his point of order. But what I was suggesting is this: this Bill has been introduced for the amelioration of the conditions of the raiyats. But this chapter does not mean that it will do any good to the raiyats. It tends only to help the zemindars. Therefore, I think, this chapter cannot be introduced in this amendment of the Act. If Government thinks that some sort of arrangement like this is necessary, that can be introduced in any other amendment. I believe this cannot be introduced in this Bill. I, therefore, oppose this and propose that this chapter be withdrawn from the amendment.

Mr. NUR AHAMED: Mr. President, Sir, I support the motion moved by Khan Bahadur Atuar Rahman that clause 33A of the Bill be omitted. Sir, I have very carefully compared the provisions of this proposed clause with chapter XIIIA of the Public Demands Recovery Act. The provisions of this Act practically go on parallel lines with all the sections of the Bengal Public Demands Recovery Act. The only difference is that it does not extend to the movable property of the judgment-debtor or certificate debtor. But in other respects it is worse than the provisions of the Bengal Public Demands Recovery Act; and the net result of the procedure will be that the tenants will be driven out of their holdings. This will act very harshly on the tenants.

Speaking from my own personal experience in our part of the country, I can say that in one zemindari it was found that after the application of this procedure, about 4,000 tenants had to leave that place.

So, I support that clause 33A should be omitted.

Mr. KAMINI KUMAR DUTTA: Sir, I also gave notice of the same amendment and so I speak in support of it. I can only say that it seemed rather very surprising to me that after the omission of chapter XIIIA, one could think of the introduction of chapter XIVA. Chapter XIIIA was far better.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Thirteen was an unlucky number. (Laughter.)

Mr. KAMINI KUMAR DUTTA: There the Certificate Officer has got some rights. He can give time to the certificate debtor and the procedure even under the Public Demands Recovery Act is not so drastic and summary as provided in this chapter XIVA. And at the same time it seems curious that the decision under chapter XIVA will not have a finality. It will not have the force of a decree. So practically it was introducing a system of dyarchy in the domain of realization of rent. So this chapter itself stands self-condemned, and it ought to be omitted.

Mr. PRESIDENT: The question has been raised whether this motion for the omission of this clause is in order. This chapter is a part of the report. I do not know whether any question about the rights of the Select Committee to accept an amendment like that was at all raised there. In any way, I hold that the Select Committee had the right to accept that chapter and here also it will be considered on its merits. The House may reject it or accept it. That is their option. All rights imply liabilities. Now, some rights have been conceded to the tenants, and if there is any provision that is not repugnant to the tenour of the Tenancy Act itself, it will be in order, provided it can be legitimately inferred from the object of its not being on the amending Act. So, I hold that it was in order to incorporate it in the Select Committee's report, and this motion for its omission is also in order.

Motion moved that clause 33A of the Bill be omitted.

Mr. HAMUDUL HUQ CHOWDHURY: Sir, I rise to support the motion moved by Khan Bahadur Ataur Rahman for rejection of this clause 33A. The clause had been introduced at the Select Committee

stage, and it was a most ill-conceived plan after Government's declaration in the Lower House that certificates for two years would be suspended. As has been stated by Mr. Nur Ahamed, the whole of the Public Demands Recovery Act has been introduced except those sections which are there for the protection of the tenants against harsh execution proceedings. Therefore, Sir, it can be easily conceived how harsh it will work on the tenants if it is applied and put into operation. Therefore, Sir, I would strongly oppose the whole chapter. The Government never knew its own mind. Fighting between opposing forces, viz., its own intention to delay the Bill as long as possible and at the same time trying to please its supporters who demand the immediate passing of the Bill, it has already unduly delayed the Bill. The Bill was unnecessarily referred to the Select Committee at the instance of the Government with the real object of introducing the certificate procedure for the whole of Bengal. But now we shall show them that they cannot have their own way on the floor of the House.

Khan Bahadur MD. IBRAHIM addressed the House in Bengali: The following is the English translation of his speech:—

Mr. President, Sir, the section 33A was neither in the original Bill nor in the Lower House. It is a wonderful creation of the Select Committee in the Upper House. Is it because the tenants are not paying rents due to zemindars that a new provision should be made for easily realizing their rents? They have been realizing their rents. What we find in villages is that in a village where thirty families of tenants live, only three of the tenants do not pay rents. Suits have only to be filed against these three. Is there any necessity of a new provision for realizing the rents due from only three tenants? Besides, what is the reason behind the non-payment of rents by defaulters? The price fetched by the agricultural produce in the country has been impossibly low. Hence, the reason why a handful of individuals are not paying rents is that they have not the means to do so. Do the zemindars, who profess to be the guardians of the tenants, grant any remission of rents to their tenants? There is no such thing as the bar of limitation, so far as the zemindars are concerned. They realize even rents barred by limitation. Hence, it is by no means reasonable to make a provision like this. I am at a loss to know why this section is needed at all. I think this section is more stringent than even the certificate procedure. I, therefore, support the resolution moved by the hon'ble Khan Bahadur Ataur Rahman.

Mr. NARESH NATH MOOKERJEE: Sir, I am afraid I am unable to congratulate my friends in the Select Committee for inserting this clause in their report. Sir, the insertion of this clause is likely to enforce extra hardship on the tenantry. In fact, it will go even further than the provisions of chapter XIIIA which is being repealed.

because it caused severe hardships and misery to the tenants. Sir, chapter XIIIA was made available to a certain section only of the zemindars after careful investigation by the Government. But this new chapter, Sir, is now available to all sections of the landlords and I fear, Sir, that the misery of the poor raiyats will be more widespread. Sir, this section moveover is likely to leave no discretion at the hands of the court as in chapter XIIIA where the Certificate Officer and every right to refuse execution or to delay the same. In this instance, Sir, the provisions make it impossible for him to exercise any such discretion and the only way by which a tenant can delay execution is by depositing 20 per cent. of the entire due and that even for a month. In no case, however, will he be able to delay it beyond the period of five months. Sir, it is very difficult to imagine even the misery of the poor raiyats if this clause is inserted because, Sir, if for instance the raiyat's land is put up for sale for arrears of rent in the month of Chaitra which is the beginning of a very bad period for the tenants as regards finance, I am afraid, Sir, that the inevitable result of it will be that his entire holding will be sold off, because I am sure not even 5 per cent. of the peasantry of Bengal at this time of the year will be able to deposit even 5 per cent. of the total demand of the landlord. With these remarks, Sir, I support my own amendment and recommend this to the acceptance of the House.

Mr. HUMAYUN KABIR: Sir, it was the fate of Cassandra to prophesy correctly, but it was the misfortune of Cassandra always to be disbelieved. Here, Sir, in discussing clause 33A I feel that I am in a similar position. When first the question of appointing a Select Committee was mooted in this House, I opposed that motion and in that, received a certain amount of support in this House. But at that time, against our opposition, the Select Committee was appointed only in order that provisions might be introduced to grant the landlords facility for speedy realisation of rent. At that time, we suggested that the motion for sending the Bill to the Select Committee would involve only wastage of the time of this House, for the amendments would not thereby be lessened in number. Besides, we also suggested at that time that any such proposal for attempting to introduce fresh provisions to alter the present laws for realisation of rent, would not be acceptable to the House, but Government in its wisdom at that time decided otherwise, and Government forced us to send the Bill to the Select Committee. The number of minutes of dissent in the Select Committee will show the volume of opposition to this clause 33A in the Select Committee itself, nevertheless, Government succeeded——

Mr. PRESIDENT: Order, order. You will not be in order in criticising the conduct of the House in sending the Bill to the Select Committee. What the House did then, was done in its wisdom and it is no use finding fault with that now.

Mr. HUMAYUN KABIR: I submit to your ruling, Sir. I shall only say that the House has grown wiser since then, and to-day the House wants to reject that very clause for the provision of which the Bill was sent to the Select Committee. I shall congratulate the Government on its wisdom, though it is belated wisdom, in realising its folly at last. To-day in the year 1938, it cannot thrust down the throats of the peasants of Bengal a clause of the type of clause 33A. With these words, I whole-heartedly support the amendment moved by my friend Khan Bahadur Ataur Rahman.

Rai KESHAB CHANDRA BASERJEE Bahadur: Sir, may I have your permission to speak in Bengali, because I notice Khan Bahadur Md. Ibrahim has made some reckless statements?

Mr. NARESH NATH MOOKERJEE: But Mr. Stokes, the Leader of the European group, may not understand what you say.

Mr. PRESIDENT: It will be better if the Hon'ble Chief Minister speak last.

Yes, Rai Bahadur, you can speak in Bengali.

Rai KESHAB CHANDRA BANERJEE Bahadur addressed the House in Bengali. The following is the English translation of his speech:—

Mr. President, Sir, I cannot help opposing what my hon'ble friend Khan Bahadur Muhammad Ibrahim has said about the collection of rents. In the first place, he has said that the tenants had been paying rents and, therefore, this piece of legislation could serve no useful purpose. His version is that only three out of one thousand tenants do not pay rents.

Khan Bahadur MD. IBRAHIM (in Bengali): No, I did not say three out of one thousand, but three out of thirty tenants default in the payment of rents.

Rai KESHAB CHANDRA BANERJEE Bahadur (in Bengali): In that case, I have heard it wrongly. Be that as it may, he said that three out of thirty were defaulters. Even if this was what he said, I still doubt whether it is correct. For, nobody ever made any investigation about this proportion. But I can say from my own personal experience that in many cases those who have the capacity to pay, do not pay rents easily in spite of the certificate procedure and other legal provisions that are there for the realization of rents. Fifty per cent. of the tenants can pay rents easily, 25 per cent. find it difficult

to pay and the remaining 25 per cent. cannot pay at all. Hence it is easy to infer whether the resolution for repealing this particular clause of the Act relating to the realization of rents will produce good or bad results. The Sun-set Law is enforced in the case of zemindars, but there is no such provision by which the rent may be realized from the tenants in due time. Now that the certificate procedure is abolished, and clause 14A (3) of the Bill is also deleted, it is quite easy to understand what the result of all this will be. At present a zemindar whose income is Rs. 50,000 has 1½ dakhs of rupees due to him from tenants by way of rent. That is to say, rents amounting to three times the income of every zemindar, ordinarily remains due to him. This I know quite well. There is truth in it and no contradiction is possible. This is the case with many estates where the realization of large amounts of rents becomes barred by limitation. The result is that the zemindars have to borrow money at an excessive rate of interest for paying revenue and cess. I, therefore, strongly oppose this resolution.

Mr. PRESIDENT: Yes, Rai Sahib!

Rai Sahib JATINDRA MOHAN SEN: Sir, when I sent my notice for amending this clause, I had my own grounds to do so. Of course, I had the good fortune of hearing of other grounds here in opposition to the retention of this clause 33A. My objection to the retention of this clause is this: I am always opposed to the provision of duplicate machinery for doing one particular thing. There is the ordinary procedure for the realisation of rent under section 148. My view is that, that section should be improved as much as possible in the interest of both the landlords and the tenants and it is not desirable that any duplicate provision such as this should be made for the speedy realisation of rent. In this House, Sir, to-day chapter XIIIA has been repealed. That also provided a sort of duplicate machinery for the realisation of rent, and I gave my support for the omission of that chapter XIIIA. Chapter XIIIA is really a sort of complicated machinery for the realisation of rent, and its repeal has been agreed to. Therefore, there is no reason why chapter XIVA should be retained.

Now, Sir, I have got my legal objection also. I do not understand as a lawyer why landlords should be made to pay full court-fees on their applications, though the decision will not amount to a decree. My point is that this is against the ordinary conception of law. Many protections and safeguards have been introduced in this chapter XIVA, that to my mind is enough to show that it would become almost impracticable in working.

So, for all these grounds, Sir, I support the motion that clause 33A should be omitted.

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, I wish to intervene at this late stage of the debates on this Bill in order to make the position of Government clear and in order to refute certain unwarranted attacks on the attitude taken by Government towards this Bill.

Sir, my friend Mr. Humayun Kabir is never so happy as when he finds an opportunity of attacking Government. I may explain to him that Government have always to look to various interests in the country, and if at some time or other they chose to change their decision, it does not mean that their previous decision had been taken without due deliberation or without any particular object in view. I may explain to this House that when the Bill was originally drafted there was no intention of inserting any provision of the kind mentioned in clause 33A of the Bill. Later on, opinions were expressed that it might be a good thing to introduce a provision for speedy realisation of rent in order to give the landlords some sort of *quid pro quo* for what had been taken away from them by the repeal of the powers of certificate procedure. It was then thought necessary that all these matters might well be threshed out in a Select Committee. It was for this reason that Government, when the Bill came up before this House, agreed to refer it to a Select Committee. After the Bill emerged from the Select Committee, we found that there was a strong volume of public opinion in the country against the introduction of a provision of this kind.

Now, Sir, Government want normal conditions restored which ought to exist between landlord and tenant, viz., conditions of mutual trust and confidence—on the part of the landlord the care that he should bestow on the tenant, and on the part of the tenant the manner in which he ought to discharge his obligations to the landlord. Throughout the last hundred and fifty years or so after the introduction of the Permanent Settlement, the relations between the landlord and the tenant have been normally satisfactory unless extraneous influences were at work and disturbed the friendliness that always existed between the landlord and the tenant. Sir, we wish to withdraw from the field; we wish to leave the landlord to deal with his tenant and the tenant to deal with his landlord in the ordinary way. To the landlord I would appeal that the best way to secure goodwill is to create confidence in his tenants. To the tenant I would give a warning that if these privileges that are being conferred on him lead him from the path of a due discharge of his duties Government will not hesitate not only to take away these privileges but enact even more stringent provisions in order to bring him to the path of his duty. I am sure, Sir, that if the hon'ble members of the two Houses who are the elected representatives of the people, the members of Government, and responsible leaders of public opinion combine and induce the tenants to pay their rents regularly, there will be no difficulty; but once, Sir, mischief-makers are at work, no amount of provisions in this Bill will secure to the landlord his due rent from his tenants.

Sir, we are, therefore, experimenting so far as the question of payment of rent by the tenants is concerned. We hope, Sir, that with these provisions in this Bill, the tenants will be induced to discharge their obligations to the landlord. We also hope that when the tenants do discharge their obligations in this way, the landlords will realise that the tenants are objects of their particular charge and that they will look after them in the manner in which it is expected of them. By this mutual trust, goodwill and confidence, a state of things will be ushered in so that the forces that work for the restoration of amity, peace and goodwill between the landlords and the tenants will triumph over every other thing, and no kind of enactment will be necessary in order to induce the tenant to pay his dues to the landlord.

Sir, I am glad that all sections of this House have combined to delete this provision of the Bill, and I hope that this will be an augury for the establishment of the best of relations between the landlords and the tenants in this province of Bengal.

Mr. PRESIDENT: The question before the House is that clause 33A of the Bill be omitted.

The motion was carried.

Clause 30.

Mr. PRESIDENT: I shall now put to vote the other amendments.

The question before the House is that in clause 30 of the Bill, sub-clause (*1*) (*aa*) be omitted.

The motion was lost.

Mr. PRESIDENT: The question before the House is that clause 30 stand part of the Bill.

The motion was agreed to.

Clause 31.

Mr. PRESIDENT: The question before the House is, that in clause 31 of the Bill, after sub-clause (*1*) the following sub-clause be inserted:—

"(*1a*) For clause (*e*) the following shall be substituted, namely:—

'(*e*) Where the rent of a tenancy has been entered in a record-of-rights finally published under chapter X or where such rent is payable under a registered lease between the landlord and the tenant or where the annual rent payable in

respect of a tenancy has been declared in a suit between the landlord and the tenant, the summons shall be a special summons for the final disposal of the suit. In other classes of rent suits, the summons may be for the settlement of issues only, if the court considers it necessary. Where the summons is for disposal of the suit, it shall be returnable after service within forty-five days'."

The motion was lost.

Mr. PRESIDENT: The question before the House is that in clause 31, sub-clauses (2) (*c*), 2 (*d*) and 2 (*e*) be omitted and after sub-clause (*2*) the following new sub-clause be added, namely:—

"(*3*) after clause (*o*) the following clause shall be inserted, namely:—

(*p*) (*i*) notwithstanding anything contained in the Civil Procedure Code any decree passed in respect of arrears of rent by any court under this section shall be transferred to the Collector of the district within which such court is situated for execution thereof, and for the purposes of execution of such decrees the provisions set forth in schedule III of the Civil Procedure Code shall apply *mutatis mutandis:*

(*ii*) in executing a decree transferred to the Collector under sub-clause (*p*) aforesaid the Collector and his subordinates shall be deemed to be acing judicially;

(*iii*) the Local Government may make rules for the operation of the aforesaid provisions, consistent therewith'."

The motion was lost.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that in clause 31 of the Bill, in sub-clause (*2*)(*c*) for all the words beginning with "and no action in execution" the following words be substituted, namely:—

"The court shall, when passing the decree, fix a date immediately after the sixtieth day of the decree and no execution of a decree shall be taken before that date."

Sir, in moving this motion I need hardly say that my object is to make the execution proceedings a continuous proceeding with the rent suit. Now, in my view if this amendment is accepted, the object of getting a speedy decree may be fulfilled to a certain extent. To that end in view, I move this amendment.

Mr. PRESIDENT: Motion moved that in clause 31 of the Bill, in sub-clause (2)(*c*) for all the words beginning with "and no action in execution" the following words be substituted, namely:—

"The court shall, when passing the decree, fix a date immediately after the sixtieth day of the decree and no execution of a decree shall be taken before that date."

Khan Bahadur ATAUR RAHMAN: Sir, after what the Hon'ble Chief Minister has just said, I do not think we should go on with this sort of amendments now. Let us pass the Act as it has come from the Assembly and let us watch the effect of this Act, as it is passed. If there be any need of such a section in the law, as has just been said by the Hon'ble Chief Minister, Government will introduce much more stringent measure than has been enacted here. I would, therefore, suggest to my friend to withdraw his amendment.

Rai Sahib JATINDRA MOHAN SEN: I beg leave to withdraw my amendment.

Mr. PRESIDENT: Is it the pleasure of the House that the motion be withdrawn?

The motion was then by leave of the House withdrawn.

Mr. PRESIDENT: The question before the House is that clause 31 stand part of the Bill.

The motion was agreed to.

Clause 34.

Mr. PRESIDENT: The question before the House is that clause 34 stand part of the Bill.

The motion was agreed to.

Clause 35.

Mr. PRESIDENT: The question before the House is that clause 35 stand part of the Bill.

The motion was agreed to.

Clause 36.

Mr. PRESIDENT: The question before the House is that clause 36 stand part of the Bill.

The motion was agreed to.

Clause 37.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, with your permission, I beg to move the following new amendment:—

"that in clause 37, the proviso to sub-section (*1*) of section 188 of the said Act, clause (*i*) shall be omitted."

Mr. PRESIDENT: The motion moved that in clause 37, the proviso to sub-section (*1*) of section 188 of the said Act, clause (*i*) shall be omitted.

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Mr. PRESIDENT: The question before the House is that in clause 37, the proviso to sub-section (*1*) of section 188 of the said Act, clause (*i*) shall be omitted.

The motion was agreed to.

Mr. PRESIDENT: The question before the House is that clause 37, as amended, stand part of the Bill.

The motion was agreed to.

Clause 38.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that in clause 38(*3*)(*b*) in the proposed sub-clause (*c*)(*iii*) to section 189, the words, brackets, figures and letters "sub-section (*5d*) of section 26F in" be omitted.

Sir, as the House has accepted sub-section (*5d*) of section 26F, it should also accept this amendment which is a consequential amendment.

Mr. PRESIDENT: Motion moved that in clause 38(*3*)(*b*) in the proposed sub-clause (*c*)(*iii*) to section 189, the words, brackets, figures and letters "sub-section (*5d*) of section 26F in" be omitted.

Mr. PRESIDENT: The question before the House is that in clause 38(*3*)(*b*) in the proposed sub-clause (*c*)(*iii*) to section 189, the words, brackets, figures and letters "sub-section (*5d*) of section 26F in" be omitted.

The motion was agreed to.

Mr. PRESIDENT: The question before the House is that clause 38, as amended, stand part of the Bill.

The motion was agreed to.

Clause 39.

Mr. PRESIDENT: The question before the House is that clause 39 stand part of the Bill.

The motion was agreed to.

Mr. LALIT CHANDRA DAS: Sir, may I draw your attention to the fact that in section 65 of the said Act after the words "decree for the rent thereof" the words "figure and letter or of an order passed on an application under section 177A" shall be inserted. How can these words come in after having dropped chapter XIVA from the amending Bill?

Mr. HUMAYUN KABIR: I have an amendment to that effect.

Clause 18A.

Mr. HUMAYUN KABIR: I beg to move that clause 18A of the Bill be omitted.

Sir, I do not think there is any necessity for arguing about it because the purpose for which it was brought in, no longer exists.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am prepared to accept the amendment of Mr. Humayun Kabir.

Mr. PRESIDENT: The question before the House is that clause 18A of the Bill be omitted.

The motion was agreed to.

Title and Preamble.

Mr. PRESIDENT: The question before the House is that the Title and the Preamble be added to the Bill.

The motion was agreed to.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the Bill, as settled in the Council, be passed.

Mr. PRESIDENT: Motion moved that the Bengal Tenancy (Amendment) Bill, 1938, as settled in the Council be passed.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: Sir, on the strength of a well-established and well-recognised parliamentary convention and relying on your indulgence and with the full concurrence and support of the Progressive party, may I beg leave to make a statement before this House, as its leader?

Mr. PRESIDENT: Yes.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: In consequence of the manner in which our legitimate amendments to the various iniquitous and illegal provisions of the Bill which is now under review has been thrown out, my party has come to the conclusion that our presence in this House can no longer be of any use and that we cannot continue to participate in the deliberations over the question which is now before us.

The most prominent and objectionable among the incidents which have impelled us to take this decision are briefly as follows:—

(1) The shaping of the Bill in a manner which will benefit the non-cultivating and rent-collecting intermediaries, so-called tenants, and not the real tillers of the soil for whom we have genuine sympathy.

(2) The total abolition of landlord's fees and the right of pre-emption which are valuable statutory rights, created in favour of the land-holder in lieu of the right to transfer a holding or any part thereof which was conceded to the occupancy raiyat by the Amending Act of 1928, without any provision for adequate compensation, or substitution of any other right or rights of reasonable profit. These statutory rights stand for the irrevocable proprietary right of the landholder in the soil, as recognised by Regulation I of 1793, and their obliteration, unless the right of transferability is restored to the landholders, in our considered opinion is bound to alter the character of the Permanent Settlement.

(3) The violation of section 52 of Regulation 8 of 1793 by depriving the landholder of his fundamental right to impose on a tenant a fair rent as the landholder thinks proper, for an area not included in a tenancy.

(4) The ruthless scraping of usufructuary mortgages and the violation of contractual rights, particularly those which are secured by contracts relating to agricultural lands.

(5) The scant regard which the Hon'ble Revenue Minister, impelled by a majority artificially created by the present Ministry, has shown to the various recommendations of the Select Committee and the manner in which he yielded to the pressure of currents and under-currents in the Assembly so as to give the Bill practically the very same shape in which it emerged from that body.

(6) The gross injustice done and undue partiality shown in not restoring the original clause 75A of the Bill, as it was introduced in the Assembly, with the sole object of suspending only those provisions of the Act relating to the enhancement of rent in total exclusion of such provisions of the Act as relate to reduction of rent, in spite of our fervent appeal to hold the scale even between all interested parties.

(7) The giving of retrospective effect to certain provisions of the Bill in violation of the fundamental principle of law without any provision for compensation.

Sir, certain members of my party agreed to serve on the Select Committee not because they stood committed to the principles of the Bill but because they thought that it was clearly their duty to make honest and earnest endeavour to effect a compromise which would be honourable to all parties concerned. They felt that it was incumbent on them to try to remove from the Bill all inequitous and unconstitutional provisions and illegalities and also to do some real good to the actual cultivators or tillers of the soil. But, they and others of my party now feel that they have failed to do so and that the Select Committee was intended to be a mere eye-wash, created with the ulterior motive of washing out the sin of omission of which the Assembly stood guilty in the eye of the civilised world for passing a measure of expropriation without even a reference to a Select Committee.

Mr. PRESIDENT: Order, order: any remark about the other House will be out of order.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: All right, Sir, I shall not labour that point. Any way, we feel that we cannot remain here with any sense of self-respect as the majority are bent upon tyrannising the helpless minority for political aggrandisement. We further feel that we cannot have any justice here and that we must seek protection elsewhere and if need be we should seek the protection of the Governor or of the Governor-General, and if necessary, of the Federal Court or of the British Parliament through the Right Hon'ble the Secretary of State. Above all, we shall take our stand upon the Instrument of Instructions created by His Imperial Majesty the King Emperor for the vindication of the Permanent Settlement which is the bulwark of the economic structure of Bengal, so far as it relates to agriculture.

In leaving this Chamber we mean no disrespect to you, Sir, and we beg to thank you most respectfully for the patient hearing which you have always given us.

(The Maharaja of Santosh then walked out of the Council Chamber followed by members of his party.)

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, this is the anniversary day of the assumption of office by the Bengal Ministers and on this auspicious day we make a present of this Bill to the landlords and the tenants of Bengal (Hear! Hear!), with a heart full of hope that in the years to come this will be the beginning of an era of peace and goodwill, not merely between the landlords and the tenants, but among the various sections that compose the population of this Presidency.

Mr. PRESIDENT: Order, order. May I draw Mr. Fazlul Huq's attention to the fact that the Bill has not yet been passed and that it is only in the third stage? But, in any way, please do not take much more time.

The Hon'ble Mr. A. K. FAZLUL HUQ: When the whole thing is over, then, perhaps, may I not have an opportunity to speak.

Mr. PRESIDENT: Even if the Bill is passed, the Hon'ble Chief Minister can always speak.

The Hon'ble Mr. A. K. FAZLUL HUQ: Thank, you, Sir. I shall be very brief and shall refer only to the Bill as it has emerged out of the third reading. I would only add a few words of sincere thanks to all sections of the House for the manner in which they have co-operated with us in passing this legislation through this House, and to you, Sir, our thanks are also particularly due for the manner in which you have so conducted the debate if I may be permitted to say so, as to bring the discussion to a speedy termination. With these few words, I commend this Bill to the consideration of this House and I hope it will be passed into law.

Dr. RADHA KUMUD MOOKERJI: Sir, I am afraid that the party which I have the honour to represent here, is not prepared to offer its whole-hearted congratulation to the Government on the enactment of this measure. We of the Congress feel that the measure does not go far enough towards the betterment of the lot of the downtrodden peasantry. Some of its provisions we have found to be somewhat inconsistent with the object with which the Bill was introduced. The Bill, frankly speaking, has been introduced to lessen the burden of the cultivators and sometimes it required a great strain on the intellect to find out how actually the burdens on the actual cultivators are going to be removed, because in the economic organisation of the landed interest of the province, there have grown up many classes who cannot, by any stretch of imagination, be dubbed as cultivators. Now, Sir, I also feel that Government has really missed an opportunity, has wasted one precious year of their office in not going to the root of the problem which affects the most important industry of Bengal, upon

which the entire economic structure of the province rests. Agriculture, on all hands, has been adjudged to be an insolvent proposition. The peasantry is down and why? Because the peasant's occupation has been proved to be uneconomic and unprofitable. We are driving the peasantry to ply this unprofitable pursuit of cultivation and we are not going to create conditions by which alone they can achieve success as cultivators. Therefore, I say without prolonging my remarks at this late hour of the day, that our position is simply this that the Bill stands half-way and some of its blessings do not even reach the actual cultivators of the soil and above all, the root problem is not at all tackled by this Bill. We had hoped that Government were prepared with far-reaching schemes by which agriculture in Bengal could be made once for all profitable and lucrative so that we should not have to tempt the peasantry into what is really to their utmost ruin and destitution. For instance, simply because we are trying to lower the size of their holdings—that will not at all improve matters for the peasantry. I am afraid that with this kind of piecemeal legislation, this kind of half-hearted measure we are really not yet in a position to confer any lasting good upon the peasants. But yet with all these shortcomings of this Bill and in spite of the inherent defects to which I have referred, Congress as a party are not prepared to oppose the passage of the Bill for the simple reason that this Bill does contain some elements of good for the tenantry, for the masses and we of the Congress who stand for all classes and not merely for a section, and for the greatest good of the greatest number, we stand committed to the principle of supporting all measures which seek to render any kind of good to the millions—to the dumb millions, the inarticulate masses, toiling and moiling in the fields out of the way, remote from the centres of civilisation. With these words, I beg to say that the Congress as a party is not prepared to oppose the passage of the Bill.

Mr. H. C. STOKES: Mr. President, Sir, our attitude to this Bill is very well known. We yield to none in our desire for the benefit of the cultivators upon whom the welfare and happiness of the province so largely depends. We agree that reform is necessary but in our opinion that reform should be preceded by carefully reasoned steps with a measure of consideration for the claims of all parties. We have endeavoured from the start to assist in bringing about a reasonable compromise but we have found the parties irreconcilable. In these circumstances, we cannot support the Bill which still exhibits those features to which on principle we took exception. The Bill remains unsatisfactory, but we shall not press our opposition to a vote against Government, with whose difficulties we sympathise. We trust that Government will use their whole influence and see that the influence of the members of their party is used in the constitutencies to improve

the relations between the landlords and the tenants, specially in the matter of ready payment of rent, on which the revenues of the province so largely depend, and we trust that on their side the landlords too will take to heart the warning recently uttered by the Maharajadhiraj of Burdwan to "put their house in order."

In conclusion, Sir, may I be permitted respectfully to associate myself with what has been said in regard to the manner in which you have presided over our deliberations? May I also, Sir, extend our congratulations to the Hon'ble Revenue Minister on the manner in which he has piloted his ship almost into harbour. We may not agree with the views of the Hon'ble Minister, but I am sure we all have admired immensely the wonderful grasp that he has shown of his subject, his patience and his evident desire to consider every suggestion that has been made from whatever side of the House.

Mr. HUMAYUN KABIR: Sir, I regret very much that I cannot congratulate in an unqualified manner the Government for this Bill which has been ably piloted in this House. (Interruption by the Hon'ble Mr. H. S. Suhrawardy)—. It is not for Mr. Suhrawardy to interrupt. Of course, I know there are immature physiological organisms who cannot control their mechanical reactions to stimuli. But I take it that I am addressing intelligent men who want to take part in the deliberations of an intelligent House, and if unintelligent intruders, unable to control their mechanical reactions, want to interrupt, such interruptions deserve to be treated with contempt, and we should not take any notice thereof——

The Hon'ble Mr. H. S. SUHRAWARDY: On a point of personal explanation, Sir——

Mr. PRESIDENT: Order, order. I think, the remarks of any hon'ble member or of an Hon'ble Minister should not be treated with contempt.

Mr. HUMAYUN KABIR: I regret very much to say that my congratulations of the Government cannot be unqualified, but I admit that this Bill is a step in the right direction. My only regret is that the step does not go far enough. Our quarrel with the Government is that it does not undertake those ameliorative measures which they should have undertaken. In the minute of dissent to the report of the Select Committee, I have pointed out two directions in which the Government Bill falls short of our expectation. One is in connection with the under-raiyats to which a reference has been made by a Leader of the Opposition. But even more important is the question of reduction of rent. There is no provision in this Bill for the reduction of rent. I know, it is very often said that even if there are reductions of

rent, is this going to do any good to the cultivators and is it going to do that amount of good to the cultivators which we expect to do? Sir, I would only state that it is not the actual amount of reduction in the rent which is important. We regard this Bill as the first step towards the substitution of a better order in place of the inequitable system of Permanent Settlement which obtains in the province to-day. We want a replacement of that system by a more equitable system of land tenure and we want that the rent of the tenant should be reduced so that the margin of profit which is left to the landlord is definitely minimised. To-day, Sir, most of the evils of the political life of Bengal are due to the psychology of security which has been built up on account of the Permanent Settlement. And our objection to the Permanent Settlement is not so much on account of the actual provisions in its operation and the consequent gain which the landlords have made but on account of the insidious poison of lassitude which has been injected into the minds of the peace-loving people of this province and which, I may also add, has to some extent created that conditions under which factions exist in this province to-day. The position of party politics in this province is due to a very large extent to that mentality of security which is the creation of the Permanent Settlement. My only regret is that Government who had a glorious opportunity to-day to start the first step towards the abolition of that system have not taken it.

With these words, Sir, I congratulate the Government for the steps it has taken, but our only regret is that it does not go far enough.

Rai Sahib JATINDRA MOHAN SEN: Mr. President, Sir, I beg to say a few words when this Bill is going to be passed into law. But before I say anything with regard to this Bill, I beg to say one or two words with regard to my position as a member of the Progressive party. Sir, I am not a landlord, I do not possess any zemindary; on the contrary, I am a tenant, and my joining the Progressive party is for the purpose of seeing that a cordial relationship between the landlord and the tenant may exist in this province, because everyone knows that the happiness of the landlord depends upon the happiness of the tenant, and that the happiness of the tenant depends upon the happiness of the landlord. So, all along my object has been to bring about this happy state of things. In my note of dissent to the report of the Select Committee I stated that the amendment should be directed to bring about peace, amity and general welfare in a large measure and not to create an estrangement between the landlord and the tenant. Of course, in this House as well as elsewhere, in the attempt of the Government to bring certain relief to the tenants, certain sections of the landlords are up against that object. I have not much sympathy for the landlords who have behaved in that way. My object has all along been to bring about a reconciliation between the landlord and

the tenant. Unfortunately though none of my amendments has been carried, still that spirit was there. And with that end in view I proposed that instead of the landlord's fee being paid to the landlord, the tenant should pay a small sum of money as mutation fee in the case of transfer of occupancy holdings. It must be admitted that Government have gone a great way towards relieving the miseries and distress of the tenants. And what I beg to state is that this could have been brought about without unnecessarily bringing in antagonism of the landlords if a conciliatory attitude could have been adopted. I never thought that the landlord group would withdraw from the House at the last stage when the Bill was being passed. My personal view is that they ought to have been present here and waited to see the Bill being passed, the more so because the Hon'ble Chief Minister in his statement in this House has assured us that he will see that the relationship between the landlord and the tenant is improved and improved for the good of the country. In that view I am of opinion that this withdrawal is unfortunate. All that I hope is that though the Bill is going to be passed on the 1st of April, we may not have to regret the day on which it is passed.

Mr. NAZIRUDDIN AHMAD: Mr. President, Sir, I shall deal with an entirely new matter. It has been said that the cherished rights of landlords are being taken away, and the hon'ble the leader of the Progressive party has threatened us with an appeal to His Excellency the Governor, and, if necessary, the Viceroy and His Majesty the King. He has said firstly, that their rights are being taken away without giving them any "compensation," and apparently he relies upon section 299 (*2*) of the Government of India Act, 1935. I do not propose to read it. I would simply submit that under this sub-section "compensation" arises only when there is "compulsory acquisition of land for public purposes", that is when land is acquired under the Land Acquisition Act, some compensation must be paid. That is the section. In the present case there is no question of any "acquisition of any land for public purposes" and no question of "compensation" therefore arises. This contention, therefore, fails.

The second objection is, under sub-section (*3*). It is that their so-called "rights in land" are going to be "modified." But sub-section (*3*) says that if there is previous sanction of the Governor, such rights, in land can be "modified" or even "extinguished". But we all know that previous sanction of His Excellency the Governor was already obtained before the initiation of this Bill. So, that objection also goes. Then Sir——

Mr. PRESIDENT: Order, order. The Maharaja of Santosh only made a statement, he did not make a speech; you need not refute his arguments.

Mr. NAZIRUDDIN AHMAD: His statement may influence votes in the House.

Sub-section (*4*) of this section says that this does not affect any existing law. Holdings were made transferable by the amending Act of 1928 and this would not be hit by the Government of India Act of 1935.

Next comes the question as to whether we are "*altering* the *character* of the Permanent Settlement", because if that is so, the Governor or the Viceroy—if the Bill is sent up to him—may, under their respective Instruments of Instructions, intervene and refuse his assent. The sole question in this case is whether the Bill "would *alter* the *character* of the Permanent Settlement". But what is the character of the Permanent Settlement? It is this. The Permanent Settlement simply made the *revenues* payable by the landlords to Government *fixed for ever*. There was no other arrangement under the Permanent Settlement. The fixity of the revenue has not been touched by the Bill. I submit, therefore, that the *character* of the Permanent Settlement will not be *altered* by the Bill. It has been authoritatively held that the so-called proprietary rights of the landlords were subject to and limited by the rights of the tenants. This has been held in the Great Rent Case of 1865 and repeated for different reasons by Mr. Phillip in his Tagore Law Lectures of 1874-75. Some of the old and undesirable rights of the tenants, which were obscured, are merely being restored to them. I submit, from all these considerations, that His Excellency the Governor or His Excellency the Viceroy—if the Bill is submitted to him will have no reason for refusing his assent.

Mr. KADER BAKSH: Mr. President, Sir, I, at the first instance, offer my heart-felt congratulations on the safe passage of this Bill through the House. Sir, this has been termed as a half-hearted measure, but I think it is a full-hearted measure, because we believe in reform and not in revolution. Sir, we are ready to proceed further to achieve other improvements. Now, it may be that the Bill is not a perfect one, but no attempt should be spared in the future to make it a complete success. I would like to congratulate the Hon'ble Revenue Minister for the strenuous labour which he took, and the assistance he gave us, and the cordial relationship that he maintained between him and us.

Sir, I also congratulate you for the patience which you have shown in the course of the discussion of this Bill. You have maintained strict impartiality in all matters.

Mr. NUR AHAMED: Mr. President, Sir, while supporting the motion for the final passage of the Bill, let me take this opportunity

of congratulating the Bengal Ministry on the bold step they have taken in initiating and getting this measure passed for the benefit of the tillers of the soil. It is sometimes said that this Ministry consist of zemindars, who cannot even dream of doing good to the peasants of Bengal. By initiating and piloting this measure through this House, they have shown to the world that it is really a popular Ministry, and they know how to yield to the popular opinion. I personally congratulate my zemindar friends, as they are many in number, upon the great personal sacrifices they have made by supporting the Bill in the House.

Sir, I personally congratulate you on the piloting of this Bill, and also the Hon'ble Revenue Minister. For he has been in a delicate position, being a zemindar himself. I must say, it is to his credit that he has stood by his election pledge and has really identified himself with the cause of the poor peasants of Bengal. To-day, the Ministry have proved that they deserve the designation of "popular Ministry".

With these words, Sir, I support the motion.

Khan Bahadur Md. IBRAHIM: Addressed the House in Bengali. The following is the English translation of his speech :—

Mr. President, Sir, although there are many defects in the present Bill, I cannot but admit that most of the dirty things which found their place in the Act as amended in 1928, have been removed. We represent the people in the country. We are, therefore, bound to do what is good and beneficial to the people. Since our Coalition party has done this successfully, I heartily thank them. There are many zemindars in this Coalition party. They have co-operated in this matter at the sacrifice of their own interests. It is for this reason that our thanks are due to the Ministers and other zemindars. Opinion is divided as to whether they are really popular Ministers or not. But we shall say that this is a popular Ministry. A section of the people are opposed to this Bill. I do not find any reason for their opposition. Considering what privileges and concessions they have enjoyed for the last one hundred and sixty years, as also, what they have realized from the tenants, I am unable to find out what loss they would have to suffer, if they are put to a little disadvantage to-day. I do not know whether even a quarter of the zemindars, who came into being when the zemindary system was first created, still survive. In Bengal it is the *mahajans, i.e.*, usurers, who have stepped into the shoes of more than half the number of zemindars. More than half the number of the zemindars that are still left over, will most probably pass into the clutches of usurers. Hence, all that the zemindars are now realizing will go to meet the demands of the *mahajans*. It is, therefore, not at all worth the time and energy they are spending on it.

We were apprehensive of the European group's opposition. But they have sympathised with us. I gratefully thank them for this. I also thank the Congress party for the little co-operation that they have given to us. We are glad that they have not stood against us.

The Hon'ble Mr. SUHRAWARDY: Mr. President, Sir, Mr. Humayun Kabir having written to me, I will just make a personal statement. All that I said was that if he wanted to say anything intelligent in this House he might strike a new line for himself, rather than repeat almost word for word the statement made by the hon'ble the Leader of the Opposition. Mr. Humayun Kabir makes certain very adverse statements against me, and coming from such a contemptible quarter as that, Sir, I will not attempt to reply to him.

Dr. RADHA KUMUD MOOKERJI: I rise on a point of order, Sir. It is most unparliamentary!

Mr. PRESIDENT: I hope the Hon'ble Minister will not use such words.

Mr. NARESH NATH MOOKERJEE: The words "contemptible quarters" should be withdrawn.

Dr. RADHA KUMUD MOOKERJI: The words "contemptible quarters" are unparliamentary.

Mr. HUMAYUN KABIR: I had said that his (referring to the Hon'ble Mr. Suhrawardy) remarks should be treated with contempt. That, I submit, is parliamentary. But his saying that my remarks come from "contemptible quarters" is not. I am afraid, his remarks will go to him in return.

Mr, PRESIDENT: Order, order. I know the tradition of the family from which the Hon'ble Minister comes, and I hope he will have no objection to withdraw the same.

The Hon'ble Mr. H. S. SUHRAWARDY: I have already withdrawn it, Sir.

Mr. PRESIDENT: Thank you.

The question before the House is that the Bengal Tenancy (Amendment) Bill, 1938, as settled in the Council be passed.

The motion was carried.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I would just like to thank you for the kindness, courtesy, and the guidance that I have received from you during the last few days in piloting this complicated measure, and I am also grateful to the hon'ble members of this House belonging to all sections for the patience with which they have co-operated with me in piloting this Bill and in getting the same through this House. There was opposition to several clauses of the Bill, but as a matter of fact, there was no opposition for the sake of opposition—they were opposition and criticisms on merits. Sir, my hon'ble friend, the Leader of the Opposition, Dr. Mookerji, said that he could not congratulate the Government whole-heartedly on this Bill, though he thought that his party would not be prepared to oppose the Bill, because it seeks to confer some benefit on the peasantry. Sir, that is much better than what his counterparts in other places did. That shows that we live and learn that time has got its great value, and people gradually realise that what others do, is not always wrong. Sir, I never claimed that this measure is a comprehensive one for bringing about a change in the whole revenue system, or the land-tenure system of the province. It was a measure meant only for giving relief to the tenantry, with regard to certain questions that were being agitated against them practically since 1928, and I claim, Sir, that by getting this Bill through the Legislature, the Government have succeeded in offering those reliefs to the peasantry of Bengal. Government have announced already the constitution of a Revenue Commission, and I dare say that the Revenue Commission will go into the root cause of the difficulties of the agriculturists of this province, and will then be in a position to suggest some suitable remedy for improving their condition, and Government hopes to introduce measures on the recommendation of that Commission before long. So, this measure should be accepted for what it is worth, and for the object for which it was really introduced by Government. Sir, one word more and I finish. My landlord friends—none of them are present here just now—have undoubtedly been called upon to make certain sacrifices for the tenants. I am sure that they too will soon realise that those sacrifices are worth making and that those sacrifices are really the price they are paying for bringing about better feelings between themselves and the tenants. That, Sir, is the surest guarantee of their position. By simply having certain statutory rights they cannot continue to flourish very long. It is the amity between the two communities that is the surest and the greatest safeguard of the landlords' rights and privileges. The landlords will be very short-sighted if they ignore this important fact. And I can also assure my landlord friends that Government are very anxious to see that their just rights and privileges are properly maintained and that their rents are regularly collected. As my esteemed friend, the Leader and Chief Minister has already announced that if the amendments that have been just introduced, do not

improve the good feelings between the landlords and the tenants and do not help the landlords in collecting their dues regularly, Government will not hesitate to introduce measures which will be helpful to them. With these few words, I conclude my remarks and I again thank you, Sir, and all my hon'ble friends in this House for the ready and the sincere co-operation that I have received from them and from you.

Adjournment.

The Council adjourned till 10-30 a.m., Saturday the 2nd April, 1938.

Members absent:

The following members were absent from the meeting held on the 1st April, 1938:—

(1) Goswami, Mr. Kanai Lal.

(2) Haider, Nawabzada Kamruddin.

(3) Hossain, Mr. Mohamed.

(4) Jan, Khan Bahadur Shaikh Muhammad.

(5) Lamb, Mr. T.

(6) Mukherji, Rai Bahadur Satis Chandra.

(7) Ray, Mr. Nagendra Narayan.

(8) Wilmer, Mr. D. H.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Buildings, Calcutta, on Saturday, the 2nd April, 1938, at 10-30 a.m., being the thirty-second day of the First Session, pursuant to section 62(2)(*a*) of the Government of India Act, 1935.

Present:

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Bengal Provincial Executive Service and the Bengal Subordinate Executive Service.

309. Mr. RANAJIT PAL CHOUDHURY (on behalf of Rai Sahib Indu Bhusan Sarker): (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state what is the present strength of—

(*i*) the Bengal Provincial Executive Service; and

(*ii*) the Bengal Subordinate Executive Service?

(*b*) What is the percentage of yearly promotion from the Provincial Executive Service to the listed posts?

(*c*) What is the percentage of yearly promotion from the Subordinate Executive Service to the Provincial Executive Service?

(*d*) Will the Hon'ble Minister be pleased to lay on the table the names of the officers thus promoted in the two branches of services during the last five years?

(*e*) Have the Government any definite percentage fixed for such promotion in these two services?

(*f*) If so, will the Hon'ble Minister be pleased to state what are the percentages fixed?

(*g*) Do the Government propose, as a measure of economy, to abolish the recruitment in the Provincial Executive Service and fill in the required number of posts in that cadre from the subordinate grade?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) (*i*) 283 and (*ii*) 413.

(*b*) Twenty per cent. of the superior posts in the Indian Civil Service cadre are reserved for members of the Provincial Executive and Judicial Services. Appointments to listed posts are dependent on the occurrence of vacancies.

(*c*) During the last five years (1933-1937) there have been fifty-three appointments from the Bengal Junior Civil Service to the Bengal Civil Service (Executive)—thirty-two by promotion and twenty-one by direct recruitment giving an average of sixty per cent. of appointments by promotion over the period.

(*d*) A statement is laid on the table.

(*e*) and (*f*) As regards appointments to the listed posts from among members of the Bengal Civil Service, the answer to (*b*) may be seen. As regards promotions from the Bengal Junior Civil Service to the Bengal Civil Service, fifty per cent. of the total vacancies to the Bengal Civil Service are to be filled by promotion.

(*g*) No.

Statement referred to in the reply to question No. 309, showing the names of officers of the Bengal Civil Service (Executive) and the Bengal Junior Civil Service who have been appointed to the listed posts and to the Bengal Civil Service (Executive), respectively, during the years 1933-1937.

APPOINTED TO THE LISTED POSTS.

1. Rai Suresh Chandra Sinha Bahadur.
2. Mr. Hari Charan Basu.
3. Mr. Lalit Chandra Guha.
4. Mr. Jatindra Mohan Chatarji.
5. Khan Bahadur Muhammad Fazlul Karim.
6. Rai Bijay Behari Mukharji Bahadur.
7. Khan Bahadur Abul Hasnat Muhammad Abdul Hye.
8. Mr. Srimanta Kumar Das Gupta, M.B.E.
9. Khan Bahadur Muhammad Mahmud.
10. Rai Sahib Jamini Prasanna Ray.
11. Rai Sarada Prasanna Ghosh Bahadur, I.S.O.

PROMOTED TO THE BENGAL CIVIL SERVICE (EXECUTIVE).

1. Babu Hem Chandra Sen.
2. Babu Satya Charan Haldar.
3. Babu Harendra Narayan Bose.
4. Babu Monoranjan Chaudhuri.
5. Babu Mati Chand Pradhan.
6. Babu Birendra Nath Bose.
7. Babu Suresh Chandra Das Gupta.
8. Babu Sasadhar Das Gupta.
9. Babu Sasanka Sekhar Chaudhuri.
10. Babu Kshirode Behari Mallik.
11. Maulvi Mir Husain.
12. Maulvi Khurshed Alom Chaudhuri.
13. Babu Promode Lal Dhar.
14. Babu Khagendra Nath Mittra.
15. Babu Jogendra Nath Maitra.
16. Babu Nihar Chandra Chakrabartti.
17. Maulvi Muhammad Fazlur Rahman.
18. Maulvi Khalil Ahmed.
19. Babu Jogesh Chandra Chakrabartti.
20. Babu Gadadhar Singh Roy.
21. Maulvi Motaharul Huq.
22. Babu Surendra Nath Roy.
23. Babu Purna Chandra Sen.
24. Babu Jotindra Kumar Mazumdar.
25. Babu Dhirendra Nath Banarji.
26. Babu Syamananda Banarji.
27. Babu Himangshu Jyoti Mazumdar.
28. Maulvi Khurshed Ali.
29. Babu Sudhangshu Ranjan De.
30. Babu Sarada Ranjan Datta Gupta.
31. Babu Paresh Nath Chatarji.
32. Maulvi Abdur Rahman Khan.

Political prisoner Dr. Bhupal Chandra Bose.

310. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether it is a fact that Mrs. Suhasini Bose of 25, Cocker Lane, Ballygunge, mother of political prisoner Dr. Bhupal Chandra Bose, a tuberculosis patient now in Howrah Jail, petitioned the Government to release him under the recently announced Government policy for the release of political prisoners on examination of individual cases;

(*b*) whether it is a fact that the mother of said Dr. Bhupal Chandra Bose has undertaken to give him all facilities of proper treatment on his release;

(*c*) whether it is a fact that Dr. Bhupal Chandra Bose is unable to walk and that the affection of his tongue is discernible while he attempts to talk and that his memory is getting weaker day by day;

(*d*) what was the weight of Dr. Bhupal Chandra Bose when he first entered prison and what is his weight now;

(*e*) whether Government propose to release Dr. Bhupal Chandra Bose now;

(*f*) if not, what are the grounds of such refusal;

(*g*) whether it is a fact that there are four other political prisoners in Howrah Jail suffering from tuberculosis;

(*h*) if so, what are their names; and

(*i*) whether Government propose to consider the urgency of setting them free now?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Yes.

(*b*) No.

(*c*) He is unable to walk but can talk clearly and his memory is good.

(*d*) 100 lbs. on admission; now 104 lbs.

(*e*) and (*f*) His condition has clearly been affected by resort to hunger-strike and his case is being examined in consultation with Government's medical advisers.

(*g*) No, three only.

(*h*) I am not prepared to disclose their names.

(*i*) There is no urgency in their cases which will be considered in accordance with the declared policy of Government.

Mr. LALIT CHANDRA DAS: Arising out of clause (*b*), is it not a fact that the mother of Dr. Bhupal Chandra Bose actually undertook in her petition to Government, that she would provide for him all possible treatment, if released?

The Hon'ble Khwaja Sir NAZIMUDDIN: It may be so, but what we want is that there must be definite arrangements made for his removal to some sanatorium. We should be assured on that point before we can consider the question of his release.

Mr. LALIT CHANDRA DAS: If an assurance is given that he will be removed to Jadabpore, and given proper treatment for tuberculosis, will Government be pleased to consider the question of his release?

The Hon'ble Khwaja Sir NAZIMUDDIN: Government will consider that point when that assurance is given.

Certain political prisoners.

311. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether the political prisoners—

(*i*) Sreejut Brojendra Das of Chittagong,

(*ii*) Sreejut Brojendra Barua of Mymensingh,

(*iii*) Sreejut Paresh Sanyal of Tangail,

(*iv*) Sreejut Kiran Mukherjea of Jessore, and

(*v*) Sreejut Atindra Roy Chowdhury of Comilla,

are suffering from acute diseases?

(*b*) Are they now in the Presidency Jail? If not, in which jail are they undergoing imprisonment?

(*c*) Is it a fact that the condition of health of each one of them has become critical?

(*d*) If so, which of them are lying critically ill?

(*e*) Do the Government propose to take action under their recent announcement of policy and set them free?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Numbers (*i*), (*iii*), (*iv*) and (*v*) are detenus and not convicts. There is no such detenu or convicted prisoner as Brojendra Barua of Mymensingh.

(*b*) They are in the Presidency Jail.

(*c*) No.

(*d*) None.

(*e*) If the hon'ble member has in mind the announcement made regarding convicted terrorists, he is referred to the answer given to part (*a*) above.

Mr. LALIT CHANDRA DAS: Arising out of answer to clause (*a*), you have stated "numbers (*i*), (*iii*), (*iv*) and (*v*) are detenus." Are they still detenus or has any of them been released since?

The Hon'ble Khwaja Sir NAZIMUDDIN: There have been relaxations, and I believe, releases too.

Mr. LALIT CHANDRA DAS: In all these cases?

The Hon'ble Khwaja Sir NAZIMUDDIN: Not in all cases, but in two or three cases, I believe.

Mr. LALIT CHANDRA DAS: May I particularly mention the name of Babu Atindra Roy Chowdhury of Comilla—is he a detenu still or has he been released?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice; I have not got the file here with me, but I can let the hon'ble member have this information later on if he is particularly anxious.

Filling-up of the post of the Assistant Mechanic in the Bengal Government Press.

312. Dr. RADHA KUMUD MOOKERJI (in behalf of Mr. Shrish Chandra Chakraverti): (*a*) Is the Hon'ble Minister in charge of the Finance Department aware that the post of the Assistant Mechanic in the Bengal Government Press had recently been filled up by the appointment of a most junior hand?

(*b*) If the answer to part (*a*) be in the affirmative, will the Hon'ble Minister be pleased to state the period of service, the pay and the section in which the appointed hand was working previous to his present appointment, and his total period of experience in the line, if any?

(*c*) Is it a fact that there were many other applicants senior to him in pay and service and that no examination was held to test the ability and fitness of the applicants for the post of the Assistant Mechanic?

(*d*) If the answer to part (*c*) be in the affirmative, will the Hon'ble Minister be pleased to state how was the fitness and ability of the man appointed, ascertained?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Finance Department): (*a*) and (*b*) A man with just under two years' service in the Press was appointed. He was drawing Rs. 45 in the Composing Section at the time of his appointment. Previous to that he worked as a monotype caster. He learned monotype casting in the Monotype School before joining the Press.

(*c*) No applications were called for.

(*d*) The Superintendent selected him because he considered him well suited for the post and because he was a Muhammadan.

Industrialisation on a large scale.

313. Rai MANMATHA NATH BOSE Bahadur (on behalf of Maharaja Sir Manmatha Nath Ray Chowdhury, of Santosh): (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state whether it is not a fact that the Government of India in a circular letter to local Governments some years back insisted upon industrialisation on a large scale and then proposals were formulated to establish agricultural colonies of educated young men, to make provisions for helping technical institutions, to advance industrial loans to enable suitable young men to set up small industries and agricultural farms in Bengal?

(*b*) If so, will he please state the reasons why the necessity of a commission of enquiry, to ascertain how far those proposals have been given effect to in Bengal and what statutory measures and actions are needed to give effect to them to the fullest possible extent, was denied in the Budget speech of the Hon'ble Finance Minister?

(*c*) Will the Hon'ble Minister be pleased to state what measures have since then been taken with respect to those matters?

(*d*) Will he please state what steps have been taken to relieve unemployment in Bengal?

(*e*) Is it now proposed to provide money for purposes enumerated in clause (*a*)?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Minister in charge of the Agriculture and Industries Department): (*a*) I am not aware of any such circular having been addressed by the Government of India to the local Governments, but whatever measures were initiated in these directions in this province, were the outcome of

the policy laid down by the then existing Government towards those ends.

(*b*) Does not arise.

(*c*) The hon'ble member is referred to the Annual Reports of the Agriculture and Industries Department and to my Budget speeches in moving the demand for the respective departments, copies of which are placed in the Library.

(*d*) So far as the Agriculture and Industries Department is concerned, which deal principally with middle-class unemployment, a number of schemes are already in existence for giving training in various forms of industry and agriculture and affording financial assistance to unemployed young men to enable them to set themselves up in business. It is in contemplation to put into operation several new schemes which provide for a large expansion of departmental activities in the same direction and provision for this has been made in the next year's budget estimate. It is also in contemplation to appoint with effect from the next year an unemployment adviser who will make a survey and prepare lists of different avenues of employment in the province with indications of the share of Bengalees and the prospects of absorption of future entrants in each occupation. His function, *inter alia*, will be to indicate the training required for each such occupation and where it is available and to give adequate publicity to the same through colleges and universities.

(*e*) This is covered by answer to (*c*) above.

Detenu Swami Jnanananda.

314. Dr. RADHA KUMUD MOOKERJI (on behalf of Mr. Kamini Kumar Dutta): (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to inform as to the present condition of health of Swami Jnanananda, a detenu under the Bengal Criminal Law Amendment Act, and his whereabouts?

(*b*) Will he be further pleased to state whether he received serious injuries while being escorted in a railway train?

(*c*) If so, will he be pleased to state the nature of injuries he received?

The Hon'ble Khwaja Sir NAZIMUDDIN: When about to alight at Khulna, the detenu opened the door before the train stopped and got two fingers pinched. After being given necessary attention at Khulna, he was admitted to the Sadar Hospital at Barisal. The injuries were not serious, one finger is already healed, and the other is making good progress. His health is otherwise good.

Alleged ill-treatment of female Political Prisoners.

315. Dr. RADHA KUMUD MOOKERJI (on behalf of Mr. H. P. Poddar): (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether the Press Officer of the Bengal Government has recently issued a statement in the newspapers contradicting the rumour that some female detenus and political prisoners have been seriously beaten inside the jails?

(*b*) Has the attention of the Hon'ble Minister been drawn to the statement issued by Srimati Indusudha Ghose, a recently released political prisoner, in the *Ananda Bazar Patrika* of the 28th January last, challenging the veracity of the Press Officer's contradiction?

(*c*) Does the Hon'ble Minister consider the desirability of appointing a committee to examine this matter?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Yes.

(*b*) I have seen a statement in the newspaper alleging that a letter to that effect had been received by the editor.

(*c*) No.

Detenus.

316. Dr. RADHA KUMUD MOOKERJI (on behalf of Mr. Naresh Nath Mookerjee): (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state the number of detenus who are still—

(*i*) detained in camps and jails;

(*ii*) domiciled in villages; and

(*iii*) domiciled at home?

(*b*) How many persons are still kept under orders of restraint under the Bengal Suppression of Terrorist Outrages Act?

(*c*) How many persons are still kept under orders of externment from their homes or places of business?

(*d*) Will the Hon'ble Minister be pleased to state the present policy of the Government regarding the release of detenus and withdrawal of restraint and externment orders?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) The numbers vary owing to the constant review of cases but the following distribution represents the orders as issued up to 15th March, 1938:—

(*i*) Twenty-seven (including those temporarily confined in jail for various purposes).

(*ii*) Three hundred and ninety-seven.

(*iii*) Twelve.

(*b*) One hundred and thirty-three.

Persons still under detention.

317. Mr. H. P. PODDAR: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to lay on the table a list of the Bengal detenus still under detention?

(*b*) Will the Hon'ble Minister please state what steps the Government are taking to release them?

(*c*) Is it a fact that nothing will be done at present to release them in absence of assurances from Mahatma Gandhi?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Government are not prepared to place a list of Bengal detenus on the table.

(*b*) Their cases are being reviewed at regular intervals and releases and relaxations made whenever justifiable having regard to public security.

(*c*) No.

Shed for witnesses within the compounds of the civil and criminal courts of Faridpur.

318. Rai Sahib INDU BHUSAN SARKER: (*a*) Is the Hon'ble Minister in charge of the Judicial and Legislative Departments aware that there is no shed for male or female witnesses to wait within the compounds of the civil and criminal courts of Faridpur?

(*b*) Has the attention of the Government been drawn to the serious inconveniences of the litigant public for want of such waiting room for witnesses?

(*c*) (*i*) Have the Government taken any steps towards the construction of such sheds?

(*ii*) If so, what steps have been taken?

(*iii*) If not, does the Hon'ble Minister propose to construct early such waiting rooms?

MINISTER in charge of the JUDICIAL and LEGISLATIVE DEPARTMENTS (the Hon'ble Nawab Musharruf Hossain, Khan Bahadur): (*a*) Yes.

(*b*) Witnesses are permitted to sit in the portico and the verandahs on all sides of the court building, which is two-storied; the inconvenience is caused rather to the court than to the witnesses.

Rai Sahib INDU BHUSAN SARKER: The answer given in part (*a*) is with regard to civil courts; will the Hon'ble Minister be pleased to state what steps are being taken to provide witnesses with sheds in the criminal courts?

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Criminal courts are not under my Department; I will draw the attention of the Home Department to this matter.

Appeals and review petitions to set aside the sales of estates held under the Bengal Revenue Sales Act of 1859.

319. Mr. NUR AHAMED: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state how many appeals and review petitions were filed to set aside the sales of estates held under provisions of the Bengal Revenue Sales Act of 1859 during the years 1934, 1935, 1936 and 1937 in the Presidency of Bengal?

(*b*) In how many of them, the sales were set aside or were recommended to be set aside by the Divisional Commissioners and in how many cases the appeal and the review petitions were rejected and the sales confirmed?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): A statement is laid on the table.

Statement referred to in the reply to question No. 319.

Year.	Number of appeals.	Number of sales annulled.	Number of appeals rejected.
1933-34 ..	374	74	300
1934-35 ..	455	83	372
1935-36 ..	524	103	421
1936-37 ..	413	116	297

Ferry ghats in Bengal.

320. Rai Sahib INDU BHUSAN SARKER: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state—

(*i*) how many ferry *ghats* there are in the Province of Bengal, district by district;

(*ii*) what is the general principle governing the leasing out of these *ghats*;

(*iii*) whether District Boards generally lease out these *ghats;*

(*iv*) whether these *ghats* are generally leased out on highest bids; and

(*v*) how many *ghats* in the Province are leased out to non-Bengalis?

(*b*) Do the Government propose to issue instructions to District Boards and other leasing authorities to give the children of the soil preference in the matter of such lease?

(*c*) Will the Hon'ble Minister be pleased to lay on the table a statement of the income from these *ghats*, district by district?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) (*i*), (*v*) and (*c*) A statement is laid on the table.

(*ii*) and (*iv*) Ferry *ghats* are leased out to highest bidder.

(*iii*) District Board ferries are leased out by the District Board authorities.

(*b*) The matter will be considered.

Statement referred to in the answer to question No. 320, showing number of ferries, etc., in the district of Bengal.

No.	District.	Total number of ferries.	Number of ferries leased out to non-Bengalees.	Income from these ferries.
1	24-Parganas ..	(*i*) 75 (District Board) . (*ii*) 25 (Municipal). (*iii*) 1 (Private).	13	(*i*) Rs. 48,789 in 1936-37. (District Board portion only.)
2	Nadia ..	57	11	Rs. 54,739-9 in 1937-38.
3	Jessore	(*i*) 58 (District Board) .. (*ii*) 2 (Municipal)	(*i*) 8	(*i*) Rs. 11,117-5-4. (*ii*) Rs. 205.
4	Khulna ..	53 (District Board) .	13	Rs. 22,945.
5	Murshidabad ..	39 ..	3 ferries with non-Bengalees and 4 with Bengalees and non-Bengalees.	Rs. 34,111-6.
6	Burdwan ..	(*i*) 15 (District Board) .. (*ii*) 4 (Municipal).	(*i*) Nil (*ii*) 1	(*i*) Rs. 8,038-8. (*ii*) Rs. 7,562.
7	Birbhum ..	8 ..	Nil	....

No.	District.	Total number of ferries.	Number of ferries leased out to non-Bengalees.	Income from these ferries.
8	Bankura ..	(*i*) 23 (District Board) .. (*ii*) 2 (Municipal).	(*i*) 1	(*i*) Rs. 7,000 approximately. (*ii*) Rs. 305 approximately.
9	Hooghly ..	22 ..	13	Rs. 54,197-12.
10	Howrah ..	(*i*) 18 (District Board) .. (*ii*) 2 (Municipal).	1	(*i*) Rs. 11,332. (*ii*) Rs. 3,601-4.
11	Midnapore ..	26 (District Board) ..	2	Rs. 36,974 in 1936-37.
12	Rajshahi ..	(*i*) 34 (District Board) .. (*ii*) 3 (Municipal).	(*i*) 31 (*ii*) 3	(*i*) Rs. 9,445 in 1936-37. (*ii*) Rs 8,125 in 1936-37.
13	Jalpaiguri ..	91 ..	51	Rs. 23,000 approximately.
14	Rangpur ..	150 ..	59	Rs. 29,315.
15	Dinajpur ..	(*i*) 32 (District Board) .. (*ii*) 4 (Municipal).	(*i*)18 (*ii*) 2	(*i*) Rs. 6,895. (*ii*) Rs. 1,500.
16	Malda ..	48 (District Board) ..	28	Rs. 36,540.
17	Bogra ..	(*i*) 36 (District Board) .. (*ii*) 5 (*Khas mahal*).	(*i*)25 (*ii*) 4	(*i*) Rs. 15,643. (*ii*) Rs. 718.
18	Pabna ..	(*i*) 90 .. (*ii*) 9	(*i*)21 (*ii*) 2	Rs. 14,899 in 1937-38.
19	Darjeeling ..	5 (District Board) ..	2	Rs 386 in 1936-37.
20	Dacca ..	88 (District Board) .	7	Varies from Rs. 30,000 to Rs. 32,000.
21	Mymensingh ..	271 (District Board) ..	137	Rs. 51,151 (average).
22	Faridpur ..	60 .	5	Rs. 6,436-12 (including arrears).
23	Bakarganj ..	(*i*) 103 (District Board) .. (*ii*) 11 (Municipal).	(*ii*) 3	(*i*) Rs. 7,115 in 1936-37. (*ii*) Rs. 5,208 in 1936-37.
24	Chittagong ..	(*i*) 82 (District Board) .. (*ii*) 32 (*Khas mahal*).	Nil	(*i*) Rs. 20,545 in 1936-37. (*ii*) Rs 1,526 in 1936-37.
25	Chittagong Hill Tracts.	37 ..	31	Rs. 1,130.
26	Tippera ..	(*i*) 83 (District Board) .. (*ii*) 3 (Municipal).	(*i*)16 (*ii*) 2	(*i*) Rs. 24,045. (*ii*) Varies from Rs. 1,800 to Rs 2,500.
27	Noakhali ..	113 ..	Nil	Rs. 12,966

Deputy and Sub-Deputy Collectors.

321. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state what was the number of Deputy Collectors and Sub-Deputy Collectors in 1930?

(*b*) What is their present number?

(*c*) What is the present sanctioned cadre for those services?

(*d*) What was the cadre recommended for these services by the Swan Retrenchment Committee?

(*e*) Has the sanctioned cadre been increased recently? If so, why?

(*f*) Do the Government contemplate to increase the sanctioned cadre in the near future? If so, what are the reasons thereof?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) 321 Deputy Collectors and 478 Sub-Deputy Collectors.

(*b*) 283 Deputy Collectors and 413 Sub-Deputy Collectors.

(*c*) 322 for the Bengal Civil Service (Executive) and 448 for the Bengal Junior Civil Service.

(*d*) 200 for the Bengal Civil Service (Executive) and 400 for the Bengal Junior Civil Service.

(*e*) No.

(*f*) The whole question of revising the sanctioned cadres has been exhaustively examined in all its bearings, and the scheme which is now before Government provides the following cadres:—249 for the Bengal Civil Service, and 534 for the Bengal Junior Civil Service. This scheme means a reduction of the sanctioned cadre of the Bengal Civil Service, and an increase in the sanctioned cadre of the Bengal Junior Civil Service. The main reasons in support of the scheme are that it is estimated to save 1½ lakhs a year on the basis of the pre-existing cadres, and that a redistribution of duties as between the two cadres on the basis of the new figures can be made without loss of efficiency. The proposed cadres are based on the estimated present needs of each district.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state why, in view of the fact that the existing number of Deputy Collectors is 283 and the proposed number is 249, the proposed scheme, which provides for reduced number, is not being given effect to?

The Hon'ble Khwaja Sir NAZIMUDDIN: Because the new scheme has not been approved and sanctioned, and at the present moment there is a very great shortage of officers. As a matter of fact, the present staff is below the normal strength.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state if the work could not be carried on by increasing the number of Sub-Deputy Collectors and reducing the number of Deputy Collectors?

The Hon'ble Khwaja Sir NAZIMUDDIN: The reduction will follow in a year or two and there will be no difficulty in reducing the number.

Leader of the Council.

322. *Rai SURENDRA NARAYAN SINHA Bahadur: Will the Hon'ble Minister in charge of the Home Department be pleased to state when the question of the appointment of a Leader of this Council will be settled?

The Hon'ble Khwaja Sir NAZIMUDDIN: Government will appoint a Leader of the House before the next session.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state if this appointment will be made in the same way as the Parliamentary Secretaries?

The Hon'ble Khwaja Sir NAZIMUDDIN: I cannot tell you now how it will be done.

Khan Sahib ABDUL HAMID CHOWDHURY: Will the Hon'ble Minister be pleased to state when the next session would be held?

The Hon'ble Khwaja Sir NAZIMUDDIN: Some time in July or August, I hope.

Poor Box at thanas.

323. Mr. NARESH NATH MOOKERJEE: (*a*) Is the Hon'ble Minister in charge of the Home Department aware of a fund known as the "Poor Box" which is kept in Lal Bazar and in some other thanas?

(*b*) For what purpose is this fund employed?

(*c*) Is any account kept of such collections; if so, will the Hon'ble Minister be pleased to submit a short statement of the receipts and disbursements during the last three years?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) The fund is maintained at Lal Bazar Police headquarters only.

(*b*) For giving relief to persons in distress.

(*c*) Yes. The receipts and disbursements for the last three years were as follows:—

Years.	Receipts.	Payments.
	Rs.	Rs.
1935	39,665	41,708*
1936	38,182	36,069
1937	37,138	38,857*

*The excess paid from previous balance.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state who are the principal subscribers to this fund?

The Hon'ble Khwaja Sir NAZIMUDDIN: Money come from various sources and one of them, I believe, is the contribution made by the contractor who takes contract of the enclosures of the football grounds in the maidan.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state if it is a fact that a large portion of this fund is subscribed by persons who are alleged to have committed some breach of traffic rules?

The Hon'ble Khwaja Sir NAZIMUDDIN: Some of it; but I do not think that a large portion of it comes from that source.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state if it is a fact that there is some coercion in realising some of this money?

The Hon'ble Khwaja Sir NAZIMUDDIN: There can be no question of coercion, because a man can always take his trial if he likes. It is just to afford an opportunity to those who commit a breach of the rules to be let off with a warning by contributing something to the "Poor Box."

Mr. SHRISH CHANDRA CHAKRAVERTI: With reference to answer in part (*b*), will the Hon'ble Minister be pleased to state what sort of persons get relief from this fund?

The Hon'ble Khwaja Sir NAZIMUDDIN: I believe that there are certain institutions which get contributions annually and also some stranded and distressed people.

Mr. SHRISH CHANDRA CHAKRAVERTI: Will the Hon'ble Minister be pleased to state whether it is a fact that mostly police officers get benefit from the major portion of this fund?

The Hon'ble Khwaja Sir NAZIMUDDIN: No.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state whether any public institutions derive any benefit from this fund?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes.

Mr. RANAJIT PAL CHOUDHURY: May we know what are the principal public bodies which derive benefit from this fund?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice, Sir.

Mr. SHRISH CHANDRA CHAKRAVERTI: Will the Hon'ble Minister be pleased to state whether it is a fact that particularly the Anglo-Indian community gets benefit from this fund?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes. The Anglo-Indian community derives benefit from the major portion of this fund.

Mr. RANAJIT PAL CHOUDHURY: Is the Hon'ble Minister prepared to see to the re-allotment of this fund, so that every community gets a fair share of it?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes. Government propropose to go into this question very thoroughly.

Labour Commissioner and his Establishment.

324. Mr. SHRISH CHANDRA CHAKRAVERTI: (*a*) Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state whether it is a fact that the post of the Labour Commissioner has been created with a separate staff?

(*b*) If so, will the Hon'ble Minister be pleased to state—

(*i*) the expenditure incurred for the pay of the Labour Commissioner and his establishment; and

(*ii*) the duties assigned to the Labour Commissioner and his staff?

(*c*) Is it a fact that the Labour Commissioner visited the Calcutta University Press in September, 1937, on receiving a written representation, as to the grievances of the Press workers?

(*d*) If so, will the Hon'ble Minister be pleased to state—

(*i*) the nature of representation received;

(*ii*) the nature of enquiries made by the Labour Commissioner, if any;

(*iii*) from whom the enquiries were made, if any;

(*iv*) the steps taken in the matter, if any; and

(*v*) if no steps have been taken, the reasons therefor?

(*e*) Will the Hon'ble Minister also be pleased to state—

(*i*) the number of representations or informations received by the Labour Commissioner, as to the evasion of the provisions of labour legislations through individual workers, groups of workers or registered trade unions from June to December, 1937;

(*ii*) the nature of such representations;

(*iii*) the actions taken on those representations; and

(*iv*) if no action has been taken, the reasons therefor?

The Hon'ble Khwaja Sir NAZIMUDDIN: (on behalf of the Minister in charge of the Commerce and Labour Department): (*a*) and (*c*) Yes.

(*b*) (*i*) The figures for the Labour Commissioner and his staff for the year 1937-38 up to 31st March are—

(1) Labour Commissioner—Rs. 19,550.

(2) Staff—Rs. 4,645-2.

The Labour Commissioner has always been an officer of the Commerce and Labour Department. He draws the above emoluments as the Deputy Secretary of the Commerce and Labour Department and receives nothing additional for being the Labour Commissioner.

(*ii*) Mediation in trade disputes, attending to after-effects of strikes, carrying out the general industrial welfare works, submitting reports on activities of trade unions, strikes, collection of labour statistics, enquiry into the condition of labour and evolving means for betterment

(*d*) (*i*) The representation suggested measures to be taken for the—

(A) immediate introduction of codified rules and regulations regarding the conditions of service of the labouring employees of the University Press;

(B) introduction of rates as obtaining in the Bengal Government Press or introduction of salary system on the basis of the grade obtaining in the Bengal Government Press;

(C) fixing an equitable pay and grade in proportion to merit and labour for the salaried labouring staff and for placing them on the "superior service."

(*e*) (*i*) One representation from a union.

(*ii*) It was a case of alleged evasion of the Payment of Wages Act.

(*iii*) At the instance of the Labour Commissioner a Factory Inspector visited the establishment where the evasion was alleged to have occurred. After careful investigation of the matter he came to the conclusion that there was no evidence in support of the allegation.

(*iv*) Vide answer to (*iii*).

Ex-detenu Babu Satinath Bharadwaz of Noakhali.

325. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether Babu Satinath Bharadwaz, B.A., of post office and village Sahapur, district Noakhali, was putting up in September last in Royal Hotel, Khulna, as a monthly boarder, after his unconditional release from detention, for the purpose of fish business;

(*b*) whether it is a fact that on the 29th September last at half past twelve in the night, the said Satinath Babu was roused from his sleep by three persons, two of whom were police officers who entered into the room after breaking open its doors;

(*c*) if the answer to part (*b*) be in the negative, whether the Hon'ble Minister will be pleased to enquire about it;

(*d*) whether it is a fact that on enquiry as to who they were, one of them said in Bengali to the said Satinath Babu "I am your father, don't you see my dress";

(*e*) if the answer to part (*c*) be in the negative, whether the Hon'ble Minister considers the desirability of making an enquiry into the matter;

(*f*) whether on Satinath Babu asking them the cause of their coming at the dead of night, the police officer angrily struck a piece of wood with his *lathi* and cried out "I think, you are a thief, answer to what I question you";

(*g*) if the answer to part (*f*) be in the negative, whether the Hon'ble Minister proposes to make an enquiry into the matter;

(*h*) who were the police officers and what were the queries made by them;

(*i*) whether the Government promised all due facilities to be given to released political prisoners to earn their livelihood;

(*j*) whether Government consider the treatment such as that mentioned above as pertinent to giving proper facilities to the released political prisoners for earning their livelihood; and

(*k*) whether the Hon'ble Minister consider the desirability of taking steps to punish the offending police officers concerned in the matter?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) He stopped at the hotel from the 20th to 30th September, 1937. It is not known if he was engaged in the fish trade.

(*b*) to (*g*) Enquiries have been made and it appears that the hotel was visited by the police in the course of their ordinary duties on the night in question but no door was broken open. Satinath Babu emerged from his room as the officers mounted the stairs of the hotel. He was neither abused nor maltreated.

(*h*) Sub-Inspector Siddique Ahmad and Sub-Inspector Shah Ali Afzal. Satinath Babu was asked his name.

(*i*) Yes.

(*j*) Yes.

(*k*) No.

Babu Kharga Narayan Roy of Saidpur.

326. Rai BROJENDRA MOHAN MAITRA Bahadur: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether it is a fact that Babu Kharga Narayan Roy of Saidpur applied for a licence for the immersion of the image of goddess Jagadhatri?

(*b*) If so, is it a fact that on the 10th of November, 1937, the Additional Superintendent of Police and the Subdivisional Magistrate of Nilphamari called the members of the Hindu Mahasabha, Saidpur, and Kharga Narayan Babu to the thana and put all sorts of pressure on them for withdrawing the application for the licence and detained Kharga Narayan Babu till 1 a.m.?

(*c*) Is it a fact that Kharga Narayan Babu was taken to Rangpur under police escort at 1 a.m. and was produced before the District Magistrate who sent him to Babu Kshetra Nath Singh, M.L.A., in order to put pressure on him?

(*d*) Is it a fact that Kharga Narayan Babu was forced to withdraw the application for the licence and was sent back to Saidpur next day, the 11th November, 1937, at 11 a.m. under police escort?

(*e*) Is it a fact that a telegram sent on the 11th November, by the Secretary, Hindu Sabha, Saidpur, to the Secretary, Bengal Provincial Hindu Sabha, was intercepted and suppressed; if so, what are the reasons thereof?

(*f*) If the answers to parts (*a*) to (*d*) be in the affirmative, will the Hon'ble Minister be pleased to state what action he has taken, or intends to take against the officers concerned?

(*g*) Does he propose to take steps to prevent such interference by the Government servants to the Hindu religious rights in future?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Yes.

(*b*) No. The Hindu Mahasabha and Kharga Narayan Babu withdrew the application after a discussion with the local officers.

(*c*) No.

(*d*) No.

(*e*) Yes. Its publication was considered undesirable from the point of view of public safety.

(*f*) None.

(*g*) Does not arise.

Rai BROJENDRA MOHAN MAITRA Bahadur: With reference to answer to part (*c*), will the Hon'ble Minister be pleased to state whether the contents of the said telegram were to the effect that Kharga Narayan Babu was taken to Rangpur under police escort at 1 a.m. on the 10th November, and is he prepared to admit that no information was forthcoming up to 8 a.m. on the 11th November—the time when the telegram was sent?

The Hon'ble Khwaja Sir NAZIMUDDIN: No, Sir. My information is that the telegram contained a lot of exaggerated and unsubstantiated statements which were likely to excite communal feelings.

Repatriated Andaman Political Prisoner, Dr. Bhupal Chandra Bose.

327. Mr. LALIT CHANDRA DAS: (*a*) Is it a fact that Dr. Bhupal Chandra Bose, a repatriated Andaman political prisoner in the Dacca Central Jail, is having temperature daily varying from 99° to 101° since the last hunger-strike?

(*b*) What was the weight of the said prisoner at the time he was admitted to jail and what is his present weight?

(*c*) Is it a fact that he is quite unable to move about and has to be carried to answer calls of nature?

(*d*) Is there any special arrangement and scientifically equipped ward for treatment of tuberculosis patients by specialist in the Dacca Jail?

(*e*) Is it a fact that the prisoner is a tuberculosis patient and is hanging between life and death?

(*f*) What special arrangements have been made in the Dacca Jail Hospital for his diet and treatment?

(*g*) Do the Government propose to take action under section 401 of the Criminal Procedure Code and release him on his relatives undertaking to put him in a sanitarium for special treatment by expert, taking all possible care to prevent infection?

If not, will the Hon'ble Minister please give reasons for such refusal?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) to (*f*) The prisoner is no longer confined in Dacca Central Jail. His temperature is normal and his weight is rising. He is suffering from weakness consequent upon his going on hunger-strike, especially in the muscles of the lower limbs, but he is not dangerously ill.

(*g*) Any undertaking in the sense suggested will be examined when received.

Arunchandra High School.

328. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) whether disciplinary action has been taken by the Head Master of the Arunchandra High School at Noakhali against two students for distributing "Independence Day" leaflets there on the 26th January last;

(*b*) whether in the course of distribution, a leaflet was also handed over to the Headmaster of the Noakhali Zilla School who reported the matter to the District Magistrate;

(*c*) whether the Hon'ble Minister is aware that independence of India is the goal both of the Congress as well as of the Moslem League including the Praja Party in Bengal;

(*d*) (*i*) whether the Headmaster of the Arunchandra High School was asked by the District Magistrate to take disciplinary action against the boys concerned in distributing those leaflets; and

(*d*) (*ii*) whether accordingly the Headmaster awarded them corporal punishment;

(*e*) whether there was anything wrong or illegal on the part of the boys concerned in distributing the "Independence Day" leaflets;

(*f*) if the answer be in the negative, do Government propose to take any disciplinary action against the Magistrate and the Headmaster concerned for what they did;

(*g*) if not, what are the reasons thereof;

(*h*) whether the Hon'ble Minister has received a copy of the said leaflet;

(*i*) if so, whether the Hon'ble Minister will be pleased to lay it on the table?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Minister in charge of the Education Department): (*a*) Yes.

(*b*) A leaflet was transmitted to the Headmaster of the Noakhali Zilla Schol, but this was not reported to the District Magistrate.

(*c*) Yes.

(*d*) (*i*) Yes.

(*d*) (*ii*) Yes.

(*e*) My information is that the boys during school hours clandestinely entered the room of the Headmaster of another school and there deposited a political leaflet. I think that this would be considered a breach of school discipline in any country.

(*f*) Does not arise.

(*g*) Does not arise.

(*h*) No.

(*i*) Does not arise.

Mr. LALIT CHANDRA DAS: With reference to answer to part (*e*), will the Hon'ble Minister be pleased to state what is meant by the word "'clandestinely"?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It means surreptitiously.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether the doors of the Headmaster's room were closed?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, but unnoticed by the Headmaster, they crept in without asking for his permission.

Mr. LALIT CHANDRA DAS: Was it day time or night?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Whether it is day time or night time, it is quite possible for anybody to——

Mr. LALIT CHANDRA DAS: I don't want argument; I want facts. Was it day time or night?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It was day time, Sir.

Mr. LALIT CHANDRA DAS: At what hour of the day?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I ask for notice, Sir.

Mr. LALIT CHANDRA DAS: Was the Headmaster in?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, he was in.

Mr. LALIT CHANDRA DAS: How could they enter the room without the Headmaster noticing them?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: They did not face the Headmaster.

Mr. LALIT CHANDRA DAS: Is there any harm for any students to enter the room of the Headmaster?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Certainly, there is. If outsiders get into a school room, it is certainly a breach of discipline.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether he considers students to be outsiders in relation to the Headmaster?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: They were not students of the same school, but they were students of another school.

Mr. LALIT CHANDRA DAS: May be, but they were after all students.

(No reply.)

Mr. LALIT CHANDRA DAS: With reference to answer to part (*c*), viz., "...this would be considered a breach of school discipline in any country", of which country does the Hon'ble Minister speak? Would it be considered a breach of discipline in England also?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Certainly. "In any country" means "in every country".

Mr. LALIT CHANDRA DAS: Was the Headmaster offended by the fact that the leaflet in question was an "Independence Day" leaflet?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The Headmaster thought that it was done deliberately to insult him.

Mr. LALIT CHANDRA DAS: Was it a red rag to him?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I refuse to answer this question.

Misappropriation of Fund in Co-operative Banks.

329. Khan Bahadur ATAUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state how many cases of defalcation and misappropriation of fund were discovered in the co-operative banks and societies during the years 1934 to 1937?

(*b*) What is the total amount involved in these cases?

(*c*) How many offenders were punished?

(*d*) What steps are being taken to stop such misappropriation of funds?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT) (the Hon'ble Mr. Mukunda Behary Mullick): (*a*), (*b*), (*c*) and (*d*) The hon'ble member

is referred to the answers given to question No. 113 for the current session of the Bengal Legislative Council.

Banking Companies in Bengal.

330. Rai MANMATHA NATH BOSE Bahadur (on behalf of Rai Sahib Jatindra Mohan Sen): (*a*) Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state——

(*i*) the number of banking companies doing exclusively loan business, and the loan offices, in Bengal, registered under the Indian Companies Act prior to the Act of 1913;

(*ii*) the number of such banking companies and loan offices registered under the Indian Companies Act of 1913;

(*iii*) how many of these banking companies and loan offices have taken protection under section 153 of Indian Companies Act; and

(*iv*) what was the total amount of deposits held by them when these banking companies and loan offices obtained protection under the aforesaid section?

(*b*) Will the Hon'ble Minister be pleased to state what progress has been made in the matter of the consideration about the formation of a committee of experts with some members of both the Chambers for examining the conditions of these banking companies and loan offices and for devising ways and means for reviving them?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Commerce and Labour Department): (*a*) It is hardly possible to draw a line of demarcation between a banking company and a loan office, as most of them do banking as well as loan business. So far as can be gathered from the records in the office of the Registrar of Joint Stock Companies, Bengal, I am able to furnish the following information:—

		Rs.
(*i*) Banking companies	...	56
Loan offices	...	43
Total	...	99
(*ii*) Banking companies	...	493
Loan offices	...	545
Total	...	1,038

(*iii*) Since the introduction of the Indian Companies (Amendment) Act, 1936, on the 15th January, 1937, four banking companies and three loan offices have taken protection under section 153 of the Indian Companies Act, 1913. (Figures prior to the 15th January, 1937, are not available).

	Rs.
(*iv*) Banking companies	3,52,741
Loan offices	6,67,647

(*b*) The hon'ble member is referred to my reply to question 145 (*b*). The matter is still under consideration.

Number of the Hindus and the Mussalmans appointed to Posts with Salaries of Rs. 30.

331. Mr. HAMIDUL HUQ CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to lay on the table a statement showing separately the number of the Hindus and the Mussalmans appointed to posts with salaries of Rs. 30 and over per month during the year 1934 to 1937 by——

(*i*) Magistrates of different districts;

(*ii*) the Superintendents of Police of different districts;

(*iii*) the Divisional Commissioners of different divisions; and

(*iv*) the Deputy Inspectors-General of Police?

(*b*) Will the Hon'ble Minister be pleased to state what rules there are to enforce the observance of the communal ratio in making those appointments?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) The compilation of such a statement would involve an amount of time and labour which Government regret, they are not prepared to undertake.

(*b*) Control is exercised over the appointing authorities by means of annual returns and periodical reviews of the position in all departments.

Subordinate and Gazetted Ranks under the Bengal Secretariat and Provincial Civil Services.

332. Mrs. K. D'ROZARIO: Will the Hon'ble Minister in charge of the Home Department be pleased to state with reference to the subordinate and gazetted rank under the Bengal Secretariat and Provincial Civil Services—

(*a*) their communal composition in the years 1920, 1925, 1930, and 1937, respectively;

(*b*) the number of members of the Anglo-Indian, Christian and other minority communities recruited to each department by grades during the periods 1920-25, 1925-30, 1930-35 and 1935-37, respectively; and

(*c*) the percentages reserved for each community in the various departments?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*), (*b*) and (*c*) I regret, I am unable to undertake the labour involved in compiling this information.

The Credit Movement.

333. Khan Bahadur ATAUR RAHMAN: (*a*) Is the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department aware that the credit movement has been affected for inabilities of many banks to pay their depositors at the due date of maturity of their deposits?

(*b*) Is the Hon'ble Minister aware that many banks have stopped even payment of nominal interest to their depositor?

(*c*) What steps do the Government propose to take to remove these difficulties and bring the movement on proper line?

The Hon'ble Mr. MUKUNDA BEHARI MULLICK: (*a*) Yes.

(*b*) Three Central Banks have with the consent of the depositors suspended payment of interest on the deposits.

(*c*) The department has just completed an investigation into the condition of the societies and their assets. Schemes are now under consideration whereby depositors may be enabled progressively to recover their investments with as little delay as possible and without causing undue hardship to the debtor-members.

Duties of the Labour Commissioner.

334. Mr. SHRISH CHANDRA CHAKRAVERTI: Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state—

(*a*) what are the duties of the Labour Commissioner;

(*b*) whether one of the duties of the Labour Commissioner is to supervise and control the activities of the Inspectors of Factories;

(*c*) whether the Hon'ble Minister is aware that the Press Employees' Association, Calcutta, by a letter, dated the 13th December, 1937, brought to the notice of the Chief Inspector of Factories certain facts regarding tht evasion of the Factories Act in the St. Andrews' Press;

(*d*) whether it was stated therein that on the 11th December, 1937, the workers of the Press had to work at a stretch for twenty-three hours with an interval of one hour and a half only, and that they had to work on the following Sunday also; and

(*e*) if so, whether the Chief Inspector of Factories has taken any steps against the authority of the Press, and if not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Minister in charge of the Commerce and Labour Department): (*a*) Vide answer to clause (*b*) (*ii*) of question by Mr. Shrish Chandra Chakraverti answered by me in this session of the Council.

(*b*) No.

(*c*) Yes.

(*d*) Yes.

(*e*) The complaint in question was not enquired into immediately as it followed closely on the heels of a previous complaint of exactly the same nature, in respect of the same factory and from the same source, enquiry into which proved abortive.

Action cannot be started on a mere statement by the Secretary of the Press Employees' Association that illegal working has taken place and neither the Association nor the workers will come forward with evidence sufficient to support a prosecution.

The Hon'ble Khwaja Sir NAZIMUDDIN: With your permisison, Sir, may I state that there is a question which, unfortunately, I could not send to the Council Department in time for answer? I believe this is the last question left in my department, and if you permit me, Sir, I will read out the question and the answer so that the members may know what they are.

Mr. PRESIDENT: In whose name does the question stand?

The Hon'ble Khwaja Sir NAZIMUDDIN: In the name of Khan Bahadur Saiyed Muazzamuddin Hosain.

Mr. PRESIDENT: All right, you can read out the question and the answer.

335. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether the pay of the Calcutta Police is met from the Provincial Revenue?

(*b*) If so, why the proportion of Muslim appointments in the Calcutta Police is 33⅓rd per cent.? Is it a fact that the proportion of Muslims in the Bengal Police is 50 per cent.?

(*c*) Do the Government propose to raise the proportion of Muslim appointments to 50 per cent. in the Calcutta Police?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Yes.

(*b*) Both the queries are taken as referring to Sub-Inspectors. For the Calcutta Police, it is laid down that of the total number of appointments, a minimum of one-third shall be filled by Muhammadans. The promotion vacancies shall be filled by the selection of the best qualified men, irrespective of the community they belong to. If the number of Muhammadans gaining appointments by this avenue is such combined with a reservation of only one-third in the direct appointments, as to yield less than one-third on the whole, then the number of Muhammadans to be appointed direct should be such, provided suitable candidates are forthcoming, as to ensure a minimum one-third proportion on the whole.

As regards the Bengal Police, it is laid down that 50 per cent. of the total number of direct recruitment in each year are to be filled by Muhammadans.

(*c*) The question is being examined.

(Mr. Hamidul Huq Chowdhury rose in his place.)

Mr. PRESIDENT: Mr. Deputy President, questions are not yet finished. Do you want to put any supplementary question?

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I rise to make a statement about the Committee of Privileges.

Mr. PRESIDENT: You will, please, do so when the questions are over.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, there are two questions of mine of which I gave notice on the 7th of March, one relating to the Home Department and another to the Department of Communications and Works. They still remain to be answered.

Mr. RANAJIT PAL CHOUDHURY: I have still one question, regarding the cost of laying the foundation stone of the Burge Bridge in

Midnapore, unanswered. I have also got another question unanswered sent by me through Mr. Naresh Nath Mookerjee regarding cess in the Nadia District Board.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, as far as the question of Mr. Ranajit Pal Choudhury regarding the Irrigation Department is concerned, I may say that it also refers to the Home Department. I sent the file to the Irrigation Department yesterday and that is why the answer has been delayed. But I believe my colleague in charge of the Irrigation Department will be able to answer that question in the next session or if the hon'ble member likes, the answer can be sent to him or we can circulate the answer to all the hon'ble members, Sir.

Mr. PRESIDENT: Referring to the list of questions unanswered. I find that there are still the following number of questions to be answered: twenty-two in the Home Department, five in the Education Department, three in the Commerce and Labour Department, five in the Communications and Works Department, two in the Revenue Department, four in the Judicial Department, one in the Finance Department, and one in the Forest and Excise Department. The oldest one is of the Education Department, notice of which was despatched to that department on the 24th September, 1937, so it is about six months old. This question was put by Khan Bahadur Asaf Khan regarding the higher grants to the boys of *muktabs*. Another question was asked by Mr. Nur Ahamed regarding the number of stipends and scholarships, which also refers to the Education Department, to whom it was sent on the 20th December, 1937. There are some other questions which were sent to that department as early as January, 1938, so they are also no less than three months old. I have the whole list of unanswered questions here.

The effect of prorogation of the Council will be that all notices will lapse, but notices of all the questions that were received more than a fortnight ago and to which answers were due before the prorogation should be answered by the departments concerned, even during the period when the Council is not actually sitting, and as Sir Nazimuddin suggests, the answers might be sent to the hon'ble members to their home address and may be printed in the proceedings of the next session.

These may be printed in the usual form of questions and answers for the first meeting of the next session and may be answered orally by the Hon'ble Ministers on that date so that members may put supplementary questions. If this procedure is not adopted, the members will be deprived of their right to put supplementary questions.

Mr. RANAJIT PAL CHOUDHURY: May I submit, then, that the answers may be circulated to the members concerned, but these may

again be brought before the House on the first day of the next session, so that we may not be deprived of the privilege of putting supplementary questions?

The Hon'ble Khwaja Sir NAZIMUDDIN: May I suggest one thing, Sir. The answer may be sent to the member concerned and on the first day of the next session those questions that are pending, will be ready for answer on the floor of the House.

Rai KESHAB CHANDRA BANERJEE Bahadur: On a point of information, Sir. I sent a short-notice question relating to the Revenue Department. The question referred to the realisation of rent in the district of Burdwan, with the help of the police. It is a very important question.

Mr. PRESIDENT: But it must be considered important enough by the department concerned, as it is entirely within the discretion of the Hon'ble Minister to decide whether he would accept a short-notice question or not. It is also difficult at times for the department to obtain the necessary informations within two or three days from the date of the receipt of the short-notice question. I think, the notice has been sent to the department.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: If the hon'ble member had kindly mentioned the matter to me, I would have certainly accepted the short-notice question, but I know nothing about it. I am always anxious to answer questions and accommodate hon'ble members at the shortest notice. I shall also enquire whether this question has been received in the department.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, the effect of the action taken by Government with the help of the police has resulted in a total suspension of the collection so far as the private estates are concerned, and my object in putting this question was to put a stop to this sort of thing.

Mr. PRESIDENT: Now, that you have drawn the attention of the Hon'ble Minister to your question and when he has also promised to look into the matter, I do not think any further discussion on it is necessary.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I certainly promise to look into the matter at once.

Extension of time to the Rules Committee.

Mr. HAMIDUL HUQ CHOWDHURY: May I draw your attention, Sir, to the fact that most of the members of the Rules Committee were engaged, for one reason or another,—some in the Lower House and some here—in connection with the passage of the Bengal Tenancy (Amendment) Bill? Therefore, we could not find time to meet for the purpose of framing our rules. I submit, therefore, that the time may be further extended by two months.

Mr. PRESIDENT: You should formally move that the date of submission of the report be extended by another two months.

Mr. HAMIDUL HUQ CHOWDHURY: I beg to move that the date of submission of the report of the Rules Committee be extended by a further period of two months.

Mr. PRESIDENT: Motion moved that the date of submission of the report of the Rules Committee be extended by a further period of two months.

Mr. NAZIRUDDIN AHMAD: May I inform the House, Sir, that no meeting of the Rules Committee has been called, and it has taken two months to decide whether any meeting should be called or not. I would, therefore, suggest that four months would be rather adequate, and I suggest an amendment that the time be extended by four months.

Mr. PRESIDENT: The House should know that there were certain difficulties. The Committee wanted to consult the report to be framed by the Rules Committee of the Lower House. That was perhaps one of the reasons. Further, during this session it was very difficult for the members and the Ministers to attend the meeting of the Committee. But I consider four months to be too long, because that will mean indefinitely postponing the framing of the rules. We have been experiencing difficulties every day with our present rules. Even for an ordinary amendment ten days' notice is necessary, and the Chair feels a certain amount of hesitancy at times to suspend the rules. So, I hope Mr. Naziruddin Ahmad will not press his motion. The Committee might sit at some convenient place and submit its report before we meet for the next session.

Khan Bahadur Maulvi MOHAMMAD IBRAHIM (in Bengali): Six months have elapsed and they have as yet done nothing. I propose that a new Committee be formed.

Mr. PRESIDENT: May I have the opinion of the Hon'ble Finance Minister on this point?

The Hon'ble Mr. NALINI RANJAN SARKER: I would suggest 15th of July as the date for the submission of the Committee's report.

Mr. HAMIDUL HUQ CHOWDHURY: I accept the amendment.

Maharaja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh: As the Hon'ble Finance Minister is going up to the hills, will he very kindly invite us to go there? (Laughter.)

Khan Bahadur Maulvi MOHAMMAD IBRAHIM (in Bengali): If the members go to Darjeeling with the Hon'ble Ministers, something may be done there in the cool atmosphere. Perhaps the extreme heat here prevents anything being done.

Mr. PRESIDENT: They will certainly take that into consideration. (Laughter.)

The question before the House is that the date of submission of the report of the Rules Committee be extended till the 15th of July.

The motion was adopted.

Privileges of the House.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, I rise on a question of privilege of this House. We have on more than one occasion brought to your notice the absence of any recognition of our rights and privileges as members of this House. We find, Sir, that the President has no gallery of his own, although there is a separate gallery for the Speaker, bearing a prominent sign-board. The sign-boards displayed at the several entrances to the Council Chamber are meant for the guidance of the members of the Assembly. Some directions are also found at the entrance to the Legislative Buildings and these are evidently intended for the convenience of the members of the Assembly. It seems, Sir, that we are strangers in our own home and our existence is not recognised. We are treated like *pariahs* and unwelcome intruders. Sir, these matters, although insignificant, call for notice and prompt redress. Then, Sir, during the last session of the Legislative Council, each group was assigned a separate block with a placard indicating the block intended for that party and the names of individual members were also attached to the seats. But now I find that the names of the members of the Assembly are there all right, but the names of the members of the Council have been removed. These grievances call for remedy. It is for you, Sir,

to decide whether these matters should be taken up by the Committee of Privileges for consideration.

Mr. PRESIDENT: I would request the hon'ble member to realise that some of the points raised are so minor and insignificant that it would be better if he would kindly come to office and tell the Secretary or inform the President to see to these matters. All these matters should not be brought as a question of privilege. Of course, the Privilege Committee is there and the general question has been referred to them, and it will be their duty to suggest if there is any inconvenience felt by the members of this House. As regards the President's gallery, I can personally say that there was no difficulty. As a matter of fact, the Speaker's gallery is always used by my friends and other visitors. As regards the removal of name cards and other things, these are minor matters, and if you please bring these to the notice of the office, they will see that the name cards are placed in their proper places. I admit it might have given some annoyance to the members, yet I think these matters should not be pressed in the open House or placed before the Privilege Committee. I would, therefore, request you not to press for it at this stage, and I shall ask the Secretary to see that these inconveniences are removed.

Mr. HAMIDUL HUQ CHOWDHURY: May I enquire through you, Sir, when the Committee, appointed to go into the question of accommodation, will meet?

The Hon'ble Khwaja Sir NAZIMUDDIN: Government are moving for a Committee in the other House. As soon as that Committee is appointed, Government will take steps before the next meeting of the Assembly and the Council to get a report from the two Committees so that these two Committees can place their views before the respective Houses as soon as the Assembly and the Council meet.

Mr. HAMIDUL HUQ CHOWDHURY: Can we expect the Committees to meet any time during this month?

The Hon'ble Khwaja Sir NAZIMUDDIN: It is difficult to tell when they will meet, but what I, on behalf of Government, can undertake is to see that the Committees meet before the next session and in time submit their report to the House.

Mr. SHRISH CHANDRA CHAKRAVERTI: Not during the Easter holidays?

The Hon'ble Khwaja Sir NAZIMUDDIN: They cannot meet during the Easter holidays, because there are other things to attend to.

Mr. HAMIDUL HUQ CHOWDHURY: Government will be moving to Darjeeling, and is not there any possibility of meeting here in Calcutta before the Government moves?

Mr. PRESIDENT: Order, order. Hon'ble members have made their submissions about their difficulties. Now, the Ministers will take into consideration the question whether the meeting should be called at Darjeeling or in Calcutta.

GOVERNMENT BILL.

The Bengal Public Demands Recovery (Amendment) Bill, 1938.

Mr. PRESIDENT: The House will now take up the Bengal Public Demands Recovery (Amendment) Bill, 1938.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that the Bengal Public Demands Recovery (Amendment) Bill, 1938, as passed by the Assembly, be taken into consideration.

Mr. PRESIDENT: Motion moved that the Bengal Public Demands Recovery (Amendment) Bill, 1938, as passed by the Assembly, be taken into consideration.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, I beg to oppose the consideration of this Bill, the Bengal Public Demands Recovery (Amendment) Bill, 1938. Sir, if the ears of my friends opposite are not stuffed with cotton or their hearts steeled against reason and justice, then I may say that they will soon realize that this Bill, though small, is not so innocent as at first sight it might seem. I do hope that the love of my friends opposite for the peasants is not feigned but real, is not a pretence, but genuine. Only yesterday in this chamber my friends opposite together with us of course repealed chapter XIIIA of the Bengal Tenancy Act for speedy realisation of rent by certificate procedure, because forsooth they thought that it worked hardship on them. Sir, with what reasons will my friends now import the provisions of the Public Demands Recovery Act for summary realisation of debts of the poor cultivators of the soil, simply because in this case the creditor is not a mere landlord or other banks, but the land mortgage bank? Only yesterday, the House in a body, barring of course the Progressive group, refused, rather omitted chapter XIVA for speedy realization of rent from the tenants, although rent is the first charge upon the land. And why? Because they sincerely believed that the importation of chapter XIVA of the Bengal Tenancy Act as part of the Bengal Tenancy (Amendment) Bill would work a great hardship on the tenants themselves. It remains for us to see with what consistency my friends opposite will now be a party to the

introduction of the provisions of the Public Demands Recovery Act for the realization of the debts from the poor cultivators by the land mortgage bank. Now, they know of course that the provisions of the Public Demands Recovery Act, when enforced, will not discriminate between persons. They go and ransack all the belongings of the poor peasants, including their utensils and cattle. It is a notorious fact that the peasantry in Bengal is over head and ears in debt. It is because you know that and we all believe this, that we made the Agricultural Debtors' Act and also appointed a Debt Conciliation Board, so that they might liquidate and compose the debts of the poor peasants. How will you now believe that the stringent provisions of the Public Demands Recovery Act will not work a great hardship on these debtors of the land mortgage banks? If you do so, it will be a miracle indeed, I should say. Remember, it will be the same peasants who will have to pay. The capacity to pay will not suddenly improve simply because the client of my hon'ble friend Mr. Naziruddin Ahmad happens to be the Chairman of a land mortgage bank. Their capacity will not certainly improve.

Now, the land mortgage bank, in giving money, keeps as security lands in mortgage from the peasants themselves. According to law, they must be sued upon the security of their own money, namely, the mortgage and that in the civil court. If the suit is brought within six years, then first, the mortgaged property is to be sold in the civil court, and if that sale does not fetch the full amount, then and then only can they proceed against the rest of the properties of the poor peasants, and not before. But if a suit is brought after six years, then the only remedy against them is their mortgaged property and nothing else. Now if you judge these facts from any standpoint whatsoever, you will find that you cannot now import the provisions of the Public Demands Recovery Act to give a helping hand to the land mortgage bank to fleece these poor peasants of Bengal, simply because they had the misfortune to go to the land mortgage bank for money. If you now lend your helping hand to the engine of oppression such as the Public Demands Recovery Act whose provisions, because of its harshness, have been suspended by Government for two years—if you now give a helping hand to the land mortgage banks by giving them power to enforce the provisions of the Public Demands Recovery Act for the purpose of recovering their debts—then all that I can say is that you, my frineds, may befool some peasants for all time, and even all peasants for some time, but not all peasants for all time. Time will come sure as anything when these peasants will cry "save us from our friends." Therefore, I say again to my friends—"think, think thrice." Perhaps they will think it their duty to support the Ministry. I will then say this to my friends "Aye, aye" and "No, no" to every "yes" and "no" from the Hon'ble Minister is

hardly the way to build up a tradition for this House. Sir, I oppose this motion.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, I do not find words adequate enough to condemn this measure. It was only yesterday, Sir, that we disposed of a piece of legislation, I mean the Bengal Tenancy Bill, which has completely done away with the provisions of the Public Demands Recovery Act, namely, section 158A of the Bengal Tenancy Act, 1928. So, the Government have no right to initiate a measure which has been condemned by both the Houses of the Legislature as unpopular and as likely to cause hardship to tenants. Sir, the object of this Bill is to extend the provisions of the Public Demands Recovery Act to the land mortgage banks. These banks are exactly in the same position as ordinary money-lenders. I cannot understand, Sir, why this privilege is proposed to be given to the land mortgage banks when the private landlords have been deprived of the benefit of the certificate procedure or for the matter of that, the simplified procedure suggested by the Select Committee for the collection of arrears of rent. It is understood that Government have recently issued a circular postponing the use of the certificate procedure for two years, so far as the Government *khas mahal* lands and the Court of Wards estates are concerned. Sir, Government must be consistent in their policy. If this Bill is passed into law, it will be highly inconsistent with the principle which the Hon'ble Minister has recently enunciated, namely, that of giving relief to the cultivators. Now, it will be interesting to see what my friends opposite, I mean the Proja group, do in this matter. I hope every sensible person ought to oppose this measure for the sake of consistency, if for nothing else.

Mr. PRESIDENT: The question before the House is that the Bengal Public Demands Recovery (Amendment) Bill, 1938, as passed by the Assembly, be taken into consideration.

The House divided:—

AYES—26.

Ahmad, Mr. Naziruddin.
Ahmed, Mr. Mesbahuddin.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Bose, Rai Bahadur Manmatha Nath.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Chowdhury, Mr. Rezzaqul Haider.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Hossain, Mr. Mohamed.
Huq, Mr. Syed Muhammad Ghaziul.
Ibrahim, Khan Bahadur Maulvi Mohammad.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Rahman, Mr. Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Saileswar.
Stokes, Mr. H. G.
Wilmer, Mr. D. H.

NOES—9.

Banerjee, Rai Bahadur Keshab Chandra.	**Maitra, Rai Bahadur Brojendra Mohan.**
Chakraverti, Mr. Shrish Chandra.	**Mookarji, Dr. Radha Kumud.**
Das, Mr. Lalit Chandra.	**Pal Choudhury, Mr. Ranajit.**
Datta, Mr. Bankim Chandra.	**Sanyal, Mr. Sachindra Narayan.**
Goswami, Mr. Kanai Lal.	

The motion was carried.

Clause 1.

Mr. PRESIDENT: The question before the House is that clause 1 stand part of the Bill.

The motion was agreed to.

Clause 2.

Mr. NUR AHAMED: I beg to move that in clause 2 of the Bill in line 5, the words "or an assignee of such bank" be omitted.

In bringing my amendment, I make the following submission to the House for its consideration. Our hon'ble friend Mr. Lalit Chandra Das has charged this side of the House by asking how the members of this side are going to reconcile their conduct of to-day with that of yesterday. But with all deference to him, I must say that there are very cogent reasons in favour of the Bill. Government think that the Bill is necessary for the good of the very persons for whom land mortgage banks have been established. How far Government is sincere, let us wait and see. Government have given reasons for bringing this measure and in my opinion, it would facilitate easier credit for the land mortgage banks. Money will be available for fresh loans and it will also help Government in raising loans at lesser rate of interest for the benefit of the agriculturists. They have also other reasons for bringing forward this Bill, namely, for extending their summary power, embodied in the Public Demands Recovery Act of 1913, to realise overdue instalments of loans payable to the land mortgage banks.

But in going through the clauses, I find that power is not only taken for the land mortgage banks, but for its assignee also. I do not find any definition of "assignee." An assignee of a bank may be a private individual. I think there is a distinction between this measure and the certificate power enjoyed by the individual zemindar, and Government are going to give the power to the land mortgage banks whose directors are elected representatives of the people. There is a further safeguard that in all the requisitions of land mortgage banks, certificates countersigned by the Registrar of Co-operative Societies will have to be issued. An elective body will consider in all cases the propriety of issuing certificates and their decision will be

reviewed by the Registrar of Co-operative Societies. So, there is difference between the power given to the individual zemindars who may exercise their certificate power arbitrarily for the oppression of the poor peasants and the power now provided for, which has got the safeguards mentioned above.

Sir, I do not support the provisions of this Bill; but as Government say they want money at a lesser rate of interest for the benefit of the land mortgage banks, and also for establishing more banks, and, as I think more banks are necessary, I do not oppose the whole clause, but only that part of the clause which is not clear to me, relating to the assignee of the land mortgage banks. In my humble opinion, the assignee is a word that is wide enough to include in it individual transferee also. So, there is no reason why this power should be extended to assignee of land mortgage banks. That is why I move the deletion of these words, and I hope the House will accept my amendment.

Mr. PRESIDENT: Motion moved that in clause 2 of the Bill in line 5, the words "or an assignee of such bank" be omitted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I am afraid, Sir, there is considerable misapprehension about this proposal to provide for assignment. It is not the idea that the assignee should be a private individual. Primarily, the assignee will be either a Central Bank or a Provincial Bank, or the Registrar of Co-operative Societies, who is the trustee of the debentures. If this provision is not made, then it would be difficult for the land mortgage banks to raise money by mortgaging the debentures with any other Provincial Bank or land mortgage bank. Sir, the idea of the land mortgage bank is to give proper facilities to the agriculturists to pay up their old debts by giving them long-term credit, and this amendment is really in the interest of the peasantry of Bengal. The Madras Government have guaranteed the interest on the debentures and they have secured deposit to the extent of a crore and a half. This Government also hope that if this power of realisation of debts due to the land mortgage banks by certificate procedure is granted by the Legislature, they will be in a position to guarantee interest on the debentures, and that will encourage the public to invest money in the debentures of these land mortgage banks, and a large amount will be put into these banks which will ultimately be utilised in the interest of agriculturists. The money will be available for paying up their debts and securing them long-term credits at a much lower rate of interest than at present. Unless Government give a guarantee, it is not possible for these banks to raise the debentures at a low rate of interest or to advance the money to the agriculturists at a low rate of interest. That

is a point which should always be borne in mind; the position and the usefulness of the land mortgage banks must not be mixed up with those ordinary creditors. These banks are national institutions which are proposed to be set up not merely in the interest of a particular creditor or a set of creditors but in the interest of the community as a whole.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: What will be the rate of interest?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The rate of interest will be very low. It is not possible to make a definite statement about the rate of interest, because the Khan Bahadur knows very well that the rate cannot be fixed, because it depends on money market and is, therefore, liable to fluctuation. But the intention is to advance money to the agriculturists at a very low rate of interest and that is not possible unless the banks are invested with the power of realising their dues as quickly as possible. If the dues have to be realised through the civil courts, it is not possible for the bank to transact business properly and with sufficient facilities. With these few words, I request my hon'ble friend to withdraw his amendment.

Mr. NUR AHAMED: In view of the assurance given by the Hon'ble Minister, I beg leave of the House to withdraw my motion.

Mr. PRESIDENT: Is it the pleasure of the House that the motion be withdrawn?

The motion was by the leave of the House withdrawn.

Clause 2.

Mr. PRESIDENT: The question before the House is that clause 2 stand part of the Bill.

The motion was adopted.

Clause 3.

Mr. PRESIDENT: The question before the House is that clause 3 stand part of the Bill.

The motion was adopted.

Title and Preamble.

Mr. PRESIDENT: The question before the House is that the title and the preamble be added to the Bill.

The motion was adopted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the Bill as settled in the Council be passed.

Mr. PRESIDENT: The question before the House is that the Bill as settled in the Council be passed.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, before we finally pass this Bill, we want to be sure that it is going to give some relief to the agriculturists. It has been said that this Bill is really intended for popularising these land mortgage banks and extending them to rural areas for the benefit of the agriculturists. We have been told that the rate of interest will be much lower than the ordinary rate prevailing in the *mufassil* and we have also been told that the rate of interest is always fluctuating and that no definite idea about the rate can be given; but it would be very low. Even in agricultural loans there is something definite in the Act itself that the rate of interest will be 6¼ per cent. Why then Government should not be able to tell us something definitely that the rate of interest will be 6¼ per cent. or something like it? If certain definite figures were given, we would support it. After all, it is intended for the relief of agriculturists and to extricate them from the clutches of the *mahajans* who have been charging interest at a rate of 33 per cent. We hope Government will give us this understanding before we finally give our approval to this Bill.

Khan Bahadur ATAUR RAHMAN: Sir, the question raised by Khan Bahadur Muazzamuddin Hosain has not yet been answered. What we are anxious about is the rate of interest to be realised from these debtors. If the Hon'ble Minister in charge of the Co-operative Societies can give us an assurance that it would be a very low rate of interest not exceeding one or two per cent. of the bank rate, we shall be very happy to support this measure.

Mr. NAZIRUDDIN AHMAD: Sir, my friend Mr. Lalit Chandra Das accused us, rather blamed this side of the House, for changing its attitude. I believe that my hon'ble friends on the other side have changed theirs. They were very anxious to introduce a clause relating to the speedy realisation of rent, but finding the difficulty about it, they have fallen back and are now throwing the blame on us to cover their retreat. With regard to the position of these banks, they stand on a different footing. The landlords are supposed to be in close touch with their tenants and they have got some personal connection;

so they can easily realise their rent without coercive measures. These banks will be permitted to borrow money at a rate of three per cent. interest and they will be required to lend it to the agriculturists at five per cent. So the gross margin of profit will be about two per cent. From that again the working expenses will have to be deducted. That will show that these are public bodies and not profit-making concerns. They are set up to provide easy credit facilities to the agriculturists. In the circumstances, they require special protection. Unless they get special facilities for realising all their dues with that small margin, they cannot function. So, I submit that the attitude of this side of the House in supporting this measure is quite consistent with its previous conduct.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: In reply to the question raised by Khan Bahadur Ataur Rahman and Khan Bahadur Muazzamuddin Hosain, I have great pleasure to say this on the floor of the House that there are five land mortgage banks functioning in five divisions of this province. Without these powers they have been doing some amount of business and up to the present time have only been able to lend money to the tenants at a rate of eight per cent. interest, because they have been borrowing at six and a half per cent. That indicates the *bona fides* and genuineness of these banks and as soon as they get these powers, they will be able to raise money at a lower rate of interest and advance that at a cheaper rate than eight per cent.

Rai MANMATHA NATH BOSE Bahadur: What rate of interest will be charged from the debtors?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: My friend knows that it is not possible to fix the rate of interest on the floor of the House. It depends upon various factors. The idea is that with the speedy power of recovery of money, it will be possible for these banks to get money from various sources including the Reserve Bank of India. When they have these powers, they may be able to raise money at three per cent. and lend it at five per cent. That being the position, Sir, it is genuinely hoped that with these powers, these five land mortgage banks will be of great service to the agriculturists.

Mr. LALIT CHANDRA DAS: But not even in ten years, will you be able to give a five per cent. rate of interest to the tenants. I may speak from my own experience of the Chittagong Division. There are banks there even now which are able to lend money at less than eight per cent.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: If Mr. Lalit Chandra Das is speaking from his own experience, I am

also speaking from my own experience. Whatever my friend Mr. Lalit Chandra Das may say with regard to the Comilla Banking Corporation or other banks, that is entirely different from what we have known from our experience based on the working of the five land mortgage banks now functioning. As has been said by my Hon'ble colleague, Sir Bijoy Prasad Singh Roy, with these powers in Madras the Government of that Presidency have been able to guarantee to the extent of Rs. 1½ crores and you will find, Sir, that the provisions there in that Act are still more stringent, because it has been laid down in section 9 of the Madras Land Mortgage Banks Act that they do not allow any overdone instalment to remain unrealised for more than three months—these are the provisions existing there. We have not yet gone to that extent here, but we only hope that if the Council be good enough to give this power to us, we will be able to be of some service to the really needy agriculturists of the province, and this will certainly mean that when the agriculturists will get the money they will be able to clear up their arrears including the rents to their landlords. I was, therefore, really surprised that Rai Keshab Chandra Banerjee Bahadur should have ever thought of anything to the contrary. I submit that in view of this statement that I have made, apprehensions that may still be lingering in the minds of Khan Bahadur Saiyed Muazzamuddin Hosain and Khan Bahadur Ataur Rahman, will be removed.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I rise to support the measure. There is a confusion between the two ideas. It has been said that only yesterday we had moved for deletion of this expeditious way of realising debts and, therefore, there is no justification for us in supporting another measure of a similar nature to-day. It is well known and it is a question of constitutional point that public dues, as opposed to private dues, have from time immemorial been decided on this principle that realisation shall be made first and litigation shall follow afterwards, if necessary.

Rai KESHAB CHANDRA BANERJEE Bahadur: But you have no right to oppress the public to realise public dues.

Mr. HAMIDUL HUQ CHOWDHURY: As regards private dues, it is an accepted principle of law that it is litigation which precedes and realisation that follows, and, therefore, we have to make a distinction between private and public dues. The crying need of the country is more and more rural credit. We have tackled or at least to a certain extent have attempted to tackle the question of the old debts and arrears. We are going to scale them down. We are going to divide them into instalments and make it possible for the agriculturists to pay off their old debts. But the most important and the

most difficult question that still remains to be solved is the supply of future credit. It has been suggested and, I submit, without full comprehension of the problem, that people can go on without credit facilities, and that if you stop lending, there will be a stoppage of borrowing. I submit, Sir, it is not so and it cannot be so. Usury was prohibited by Islam 1300 years ago, but that did not stop taking interest or giving interest. Both have been prohibited by Islam, but how were things managed and how did the people get money? They succeeded, because, the State intervened. The State in the shape of establishing certain credit institutions supplied the people, in need of borrowing, money without interest, and there were State funds for this purpose describd as *Baitul Mal*. Therefore, by that procedure they stopped interest, but the moment that fund was abolished, out came the interest again and even the most devout of Mussalmans began to take and give interest. It was a necessary evil. Therefore, if private money-lending has to be stopped, the State must intervene. Private money-lending is a necessary institution, but the private money-lenders have abused this institution. We cannot say that this private institution should remain and yet at the same time there shall be no abuse. There is no protection against the abuse by private money-lenders of their privileged position. The only way to stop private money-lending is that the State should intervene. By opposing this measure which is sought to be brought in for the purpose of popularising and increasing the credit of these institutions, you are opposing credit facilities to be provided by the State: in other words, you are supporting the existing old system or private money-lending. It should be the accepted principle of all who really look to the interest of the agriculturists and specially of this House to go into the question more carefully. If you make it difficult for the existing banks in these cities to realise their dues, then it can be very easily imagined that they will close their doors in a week. If they do that, what will be the repercussions on society, what will be the repercussions on commerce, and what will be the repercussions on the trading interests, generally? In the same way, therefore, the more easier the facility with which these banks realise their debts, the greater will be their credit and it is on the credit of these banks that the question depends as to what rate of interest they can borrow money from the public. The greater the ease with which these banks can discharge their obligations, the easier will be the terms on which money can be borrowed. If they have to borrow money on debentures and if somebody has guaranteed the interests on those debentures, the authority giving that guarantee of interest must also be assured that it is a guarantee which will be fulfilled. If the State has guaranteed these debentures, it will be easy to collect the money under the terms of their debentures and with the State guaranteeing a rate of interest, it will not be difficult for these banks to go to the market and float a debenture of

20, 30, 40 or 50 crores of rupees. The market may be in a position to absorb that, but the question remains that as soon as there is a guarantee behind these debentures, there will be no difficulty in paying the interest that becomes due, and if there be no failure of payment, then we can get easier terms of interest. Once we get that, we can give loan at a much cheaper rate of interest to the agriculturists in the villages. In France, Sir, as you know the agriculturists have a great voice in the control and management of the State. They have always insisted and have got from the State—and so far as I know there is a clause in the constitution of the Bank of France that imposes an obligation on it and the result of that obligation is that a certain amount of money which is not a small one shall have to be given to the agricultural credit societies without interest and that is why they are able to lend money at a very cheap rate of interest to these private borrowers. Therefore, Sir, I would impress upon the Government this necessity that they should not remain content with the five banks that they have established. They are very good for advertisement purposes; they are very good for the purpose of writing reports that the Government has a land mortgage bank department for the purpose of popularising credit to villagers. They will have to tackle the question earnestly. The question is a gigantic one. I think that no less an amount than Rs. 50 crores will be needed for the purpose of liquidating the past debts of the people as well as for meeting their future necessities, and this has to be extended over a certain period. If Government creates a statutory fund from which to supply the purchasing of debentures and extend it over a period of ten years,—Rs. 5 crores in each year to be raised by selling debentures—then the question can be tackled within a reasonable range of time. The next question is the closing of credit to certain persons, for instance, no one should be allowed to borrow whenever any fancy necessity arises. The banks will have to satisfy themselves and frame rules that the loan for which a man borrows money is to be spent on a legitimate object, for example, on improving his land or for acquiring or buying a piece of land, and once they are satisfied that the necessity exists, and they will create the proper credit facilities for the man, this will also eliminate unnecessary borrowing and put a check on the extravagant habits of the people which will conduce ultimately to the interest of the agriculturists. With these words, Sir, I submit that the Bill should be passed by this House.

Mr. KADER BAKSH: Mr. President, Sir, this question has to be looked at from three points of view. The first point is whether there is any necessity of such banks at the present moment. Now, Sir, we have heard and we know personally that rural agricultural credit has been shaken on account of the starting of rural banks and Debt Settlement Boards. I know of an instance in which a man has

been given eight years' instalments for the payment of one rupee only, and another in which for the repayment of eight maunds of paddy twenty years' instalment has been given. As a result of such things, when the agriculturists go to the *mahajans*, they refuse to lend money to them. Now, Sir, in the month of *Pous* when I was in my native district of Dinajpur, I found that agriculturists could not purchase cattle for the purpose of agriculture, because they could not get any money from the *mahajans* on account of these Debt Settlement Boards. Sir, these people have to be kept alive, and the national industry has anyhow to be kept on. But if rural banks are not started immediately, agriculture would suffer to a great extent. Then the question comes as to how these banks can be started. If these banks have to be started, they must have money to invest. But where the money is to come from? It may be obtained by raising debentures. If no guarantee is given by Government for the payment of interests as they fall due, people will not be tempted to take such debentures. The Reserve Bank which advances money at a moderate rate of interest will not also help these banks unless Government stand as a guarantee for these banks. If we are to get money for these banks, certainly there must be some guarantee for the loans advanced at a moderate rate of interest and for their speedy realisation. After the statement which the Hon'ble Minister in charge of Co-operative Department has made, namely, that the rate of interest should be very low and that they will be able to get money at an interest of three per cent. only and advance money at five per cent., there is no apprehension that under these circumstances the rate of interest will be very high, and there is no reason why the money advanced will not be repaid. It must be admitted, Sir, that this will mean some loss to the village *mahajans* who advance money at a higher rate of interest. But this is a different thing altogether. If these banks are started—and there is no reason why they should not be started very soon—the miseries of the cultivators will be removed.

With these remarks, Sir, I support this measure whole-heartedly.

Mr. PRESIDENT: The question before the House is that the Bengal Public Demands Recovery (Amendment) Bill, 1938, as settled in the Council, be passed.

The motion was adopted.

Mr. PRESIDENT: I have it in command from His Excellency the Governor that the Bengal Legislative Council do now stand prorogued.

Prorogation.

The Council then prorogued.

Members absent:

The following members were absent from the meeting held on the 2nd April, 1938:—

(1) Datta, Mr. Narendra Chandra.

(2) Dutta, Mr. Kamini Kumar.

(3) Ellahi, Khan Bahadur S. Fazal.

(4) Esmail, Khwaja Muhammad.

(5) Haider, Nawabzada Kamruddin.

(6) Jan, Khn Bahadur Shaikh Muhammad.

(7) Khan, Maulana Muhammad Akram.

(8) Lamb, Mr. T.

(9) McFarlane, Mr. J.

(10) Mukherji, Rai Bahadur Satis Chandra.

(11) Ormond, Mr. E. C.

(12) Poddar, Mr. H. P.

(13) Ray, Mr. Nagendra Narayan.

(14) Roy Chowdhury, Mr. Krishna Chandra.

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